14-1941
Daily World
Atlanta, Georgia

Oppose Naming Of Sen. Byrnes

JAN 30 1941

NEW YORK,—(SNS)— A long bitter fight, reminiscent of the campaign wage against Judge J. Parker that kept the North Carolina jurist off the United States Supreme Court in 1930, will be conducted against Senator James Byrnes, if President Roosevelt nominates the South Carolina Representative to fill the post left vacant by retiring James C. McReynolds, officials of the National Association for the Advancement of Colored People said today.

The announcement came on the heels of newspaper reports from Washington indicating that Senator Byrnes, one of the President's chief aids in the fight to pass the lease-lend bill, had the inside track on the appointment, and quoting the President as saying that he had already chosen the man who would succeed McReynolds, although he did not intend to make known the name for several weeks.

WIRE PRESIDENT

At the same time the association made public a telegram sent to Roosevelt Saturday, January 24, in which reasons for the opposition to Byrnes were stated. These reasons were summed up with the statement that Byrnes "has been absolutely consistent in opposing any and every effort to give to Negro citizens the protection of the United States Constitution."

Byrnes has consistently fought passage of the Federal Anti-lynching bill, the statement said. In 1935, as chairman of the Senate audit and control committee, he refused to permit consideration of the appropriation of $7,5000, to investigate fourteen lynchings that had taken place since May 1, when the Senate filibuster halted action on the then pending Costigan-Wagner anti-lynching bill.

Byrnes did this despite the fact that the Senate Judiciary Committee had reported out favorably a resolution offered by Senator Frederick Van Nuys calling for the investigation and authorizing the expenditure of $7,500 to conduct it.

NAACP officials pointed out that it is not without significance that the three Senators who are pressing Roosevelt to name Byrnes: Carter Glass, of Virginia; Harrison, of Mississippi, and Alben Barkley, of Kentucky are without exception opponents of Federal Anti-lynching legislation.

FATHERED VIRGINIA LAWS

Senator Glass, the NAACP officials said, is the father of disfranchisement laws for Negroes in Virginia, about which he has frequently boasted.

The association urged organizations and citizens to send telegrams and post cards and letters to President Roosevelt at once, urging him not to nominate Byrnes for the Supreme Court post.

The complete text of the Association's telegram to Roosevelt follows:

"We very sincerely hope that newspaper reports are incorrect that you are seriously considering the nomination of Senator James F. Bynes as member of United States Supreme Court to succeed Mr. Justice McReynolds. Senator Bynes record has beer absolutely constistent in opposing any and every effort to give to Negro citizens the protection of the United States Constitution. The United States Supreme Court has been the one tribunal to which minorities have been able to appeal a defense of their citizenship rights. One holding the views which Senator Byrnes has espoused on the floor of the United States Senate and elsewhere jeopardizes democracy at a time when we must put forth every effort to safeguard and extend it. We urge that Senator Byrnes or any other person sharing his views not be considered for this high post."

JAN 30

Daily World
Atlanta, Georgia

Senator Byrnes To The Supreme Court?

JAN 30 1941

WITH THE RETIREMENT of Justice McReynolds from the U. S. Supreme Court it is believed in official White House circles that Senator James F. Byrnes of South Carolina will be his successor. If Mr. Byrnes is the President's choice for this position he will be the first South Carolinian to serve the Court since the Honorable William Johnson was a Justice from 1804 to 1834 and the third South Carolinian ever to serve the Court. John Rutledge of South Carolina was a Justice of the Supreme Court from 1789 to 1791 and again, from 1795 to 1796. The latter term he was Chief Justice.

If Mr. Byrnes goes to the Supreme Court, colored citizens will have in him, perhaps, the most unpredictable man on the bench. On the one hand, he opposes Negro rights and privileges; on the other, he seems to sympathize with them. While campaigning for re-election in 1936 the senator deplored the fact that the Negro was an incessant issue in South Carolina politics. But when Anti-Lynching legislation was introduced in the senate he was in the forefront of the opposition.

Mr. Byrnes did not "walkout" of the Philadelphia Democratic National Convention because a Negro offered the opening prayer of his colleague, Senator "Cotton Ed" Smith, but when a resolution was introduced in the state Democratic meeting of 1940, condemning the Ku Klux Klan for atrocities, mainly against Negroes in the state, he led the fight to kill the resolution, thereby sustaining the klan. A few weeks later he was campaigning for Mr. Roosevelt's re-election in Harlem and among northern Negroes.

The South Carolina senator may be a "good friend" of Negro and other minority groups. He may be camouflaged by his obligation to the wishes of those who voted for him. Negro voters in the state are of no political importance. At any rate, if he is appointed to the Court he will be free of political obligations and, free to reveal the real Byrnes who for so long has been a Dr. Jekyll and Mr. Hyde on issues affecting Negro citizens.

Chester, S. C., Reporter
February 24, 1941

The Association for the Advancement of Colored People, so far as we know, has had nothing to say in reference to the proposed appointment of Senator James F. Byrnes to a position on the U. S. Supreme Bench, which is rather unexpected, as Judge Parker, of Charlotte, N. C., had hardly been suggested a few years ago before the blitzkreig started. Senator Byrnes, as far as we know, has always been kind to, and considerate of the negro; but he hasn't failed to let the country know that the Democratic party of today is largely dominated by Northern blacks. It's strange, though, that this hasn't incensed Walter White and his crowd a particle, and here are South Carolina negroes announcing that they won't lift a hand against Senator Byrnes, if he is named. Sounds like part of a well-planned scheme, doesn't it? Well, it will be all right, if Senator Byrnes wants to be a Supreme Court justice, and the support of his colored friends clinches the job for him.

Chicago Bee
Chicago. Illinois

A Law Is Needed

FEB 23 1941

THE Hansberry decision rendered by the United States Supreme Court did not kill the right to make agreements designed to keep Negroes out of certain areas. It only affected the areas bounded by Sixtieth and Sixty-third streets; South Parkway and Cottage Grove avenue. No other area was involved and none other will be affected. The white people of the far Southside realize this as evidenced by the fact that they are now erecting these racial barriers to prevent Negroes from migrating to other parts.

The veils incident to agreements preventing members of a certain racial group from living in a given area have been discussed in this paper many times. However, we risk repetition to again state that the housing situation and its attendant evils as we have experienced it during the last eight years or so can be traced directly to the immobility of the colored population that was increasing while its living area was becoming narrower. By the restrictive covenant landlords were able to bottleneck the population into a small area and there exact whatever rents they desired. This naturally brought on overcrowding in order to meet the increased demands of the owners. The landlords had no competition for the reason that all the houses on the Southside were rented. Therefore, there was no need to repair the property. Hence, run-down property has become the order of the day. Real estate dealers whose eyes see only profit in their dollars, have rushed to the Southside to invest their "blood money" into this potpourri of rent extortions and thereby share in the fat profits that pour from the buildings.

FEB 23 1941

There is one way to break up the restrictive covenants. The white people know it. They are getting ready to make a pilgrimage to Springfield that will defeat the measure designed to outlaw these covenants.

Now is the time when the sentiment of Negroes must be harnessed and put behind the passage of a law that will make it illegal to place such barriers on real estate.

The colored people of the Southside must, too, make a pilgrimage to the state legislature to aid in the success of a measure made for their benefit.

The Northwest Enterprise
Seattle. Washington

Cases Of Judges Parker And Black Reveal The Uncrtainty Of Life

MAR 21 1941

Some years ago Judge Parker of North Carolina was nominated for a vacancy on the Supreme Court of the United States, but Labor and the NAACP joined forces and blocked confirmation of his nomination by the United States Senate.

More recently, United States Senator Hugo L. Black, of Alabama, was nominated and confirmed for a similar position; and of course, the nation-wide furor created by the revelation that he had been a member of the Ku Klux Klan is now history.

MAR 21 1941

Judg Parker is now admitted to be one of the most liberal judges in the South, where colored litigants are concerned, and Mr. Justice Black has, in his short period on the Supreme Court bench, written two sweeping decisions of which the Negro was the primary beneficiary.

MAR 21 1941

These two instances reveal how uncertain life is; how difficult it is to see into the future. They do not mean, however, that in the event of similar cases in the future, vigorous protest should not be made against the appointment of men with like records.—P. T.

Age-Herald
Birmingham, Ala.

COURT REVERSES DEATH SENTENCE

Case Of Joe Vernon To Be Returned For New Trial In Alabama

MAY 27 1941

WASHINGTON, May 26 — (AP)— The Supreme Court [illegible] Monday the conviction of Joe Vernon, Birmingham Negro sentenced to die after conviction on a charge of murder.

This action was taken in an order which merely said that the judgment of conviction was reversed in the light of other similar decisions by the Supreme Court.

The Negro had previously been saved twice from execution by last-minute action of the high tribunal.

Counsel for the Negro contended among other things that he had been "beaten to the point where he was crazy" in order to obtain purported confessions.

It also was asserted that Negroes had been "intentionally and systematically" excluded from the jury. The case will be returned to Alabama courts for a new trial.

He was convicted in the Jefferson County Circuit Court of shooting Bennie Montgomery in 1937 and the verdict was upheld by the State Supreme Court. He was confined in Kilby prison in Montgomery County.

Stays of execution previously granted by the Supreme Court were on Jan. 30 and March 6. They were allowed to permit a Supreme Court review.

Advertiser
Montgomery, Ala.

Negro Slayer May Be Reprieved

L. C. Bell, negro sentenced to die June 6 on a murder conviction, probably will be reprieved, Gov. Dixon said Monday.

MAY 27 1941

Bell was convicted with Joe Vernon in the 1937 robbery-slaying of a Birmingham filling station worker, and Vernon's case was reversed Monday by the U. S. Supreme Court.

Bell's conviction was not appealed, but he has received over a dozen stays in the last two years while the companion case was fought through the courts.

Gov. Dixon said he would confer, possibly Tuesday, with Atty. Gen. Lawson and Jefferson County Solicitor Robert E. McAdory.

The negroes were convicted in January, 1939, of killing Bennie Montgomery during a holdup Sept. 20, 1937. Vernon's appeal was based principally on a claim that he was "beaten" into making a confession, and that negroes were excluded from the jury.

The U. S. Court had granted stays of execution Jan. 30 and March 6 —the first less than two hours before his scheduled electrocution. Thereupon the Governor also reprieved Bell.

Constitution
Atlanta, Georgia

U. S. Authority Over Primary Voting Upheld

MAY 2 1941

Party Rules Covered by Court Decision, Official Says.

MAY 27 1941

WASHINGTON, May 26.—(AP)—The supreme court held today that the federal government's power to regulate elections includes a state primary to select a nominee for congress.

Justice Stone delivered the 4-to-3 decision, involving a question described by the Justice Department as of "paramount public importance."

Justices Douglas, Black and Murphy dissented and Chief Justice Hughes did not participate.

Stone asserted that "We think that the authority of congress . . . includes the authority to regulate primary elections when, as in this case, they are a step in the exercise by the people of their choice of representatives in congress."

He explained that this question had not been passed on specifically in any previous decision of the supreme court, including litigation involving former Senator Truman H. Newberry, of Michigan.

Heretofore the authority of congress was generally assumed to be restricted to the regulation of general elections.

A Justice Department official familiar with the court's decision on state primaries expressed the belief the ruling extended to party regulations barring the Negro voter or requiring party regularity tests where federal office candidates are involved.

"This opinion," it was said, "makes it exceedingly likely that the court would rule that any interference with the rights of Negroes to vote in a primary to determine candidates for federal office violated the federal statute."

It was added that aside from the nominations for federal office the opinion "leaves the whole situation (in the senate) untouched."

GEORGE TAKES DIG AT SUPREME COURT

WASHINGTON, May 26.—(AP)—Although he hadn't read it, a supreme court decision on primary elections gave Senator George, Democrat, Georgia, a chance today to take a dig at the high tribunal.

Asked for comment on the ruling, the Georgian said he could not without reading it, adding:

"And I can find much more interesting reading than the average decision of the supreme court as it is now constituted."

The court held that the federal government's power to regulate elections included regulatory power over a state primary to select a nominee for congress.

14-1941

Globe and Independent
Nashville, Tenn.

JUSTICE BYRNES

In his long career as an executive, vested with the power of appointment, it is doubtful that President Roosevelt has ever exercised that power with as big a disregard for "the eternal fitness of things" as when he named Senator James F. Byrnes to the Supreme Court of the United States.

Senator Byrnes got his appointment wholly out of regard for the fact that he has been a politician, wholly dependable in engineering Administration bills through the Senate. His lack of judicial temperament and lack of legal learning belittles the great both of the present and of the past who have been appointed to the Court.

We do not join in the wishful thinking of those Negro editors who hope that Justice Byrnes will prove to be as big a disappointment on the side of tolerance and liberality as Justice Hugo Black. What reconciliation we have over the Byrnes appointment comes from the knowledge that the present Court is so grounded in liberality and has established a series of precedents that will render Mr. Byrnes' bigotry harmless, for the time being, at least.

Our disappointment over the fact that a broad-guaged man like President Roosevelt made the appointment, however, is even less than the disappointment and disgust we have for the Republican leadership of the Senate which facilitated the hurried ratification of the appointment.

Republicans who undertake to "view with alarm" the appointment of Mr. Byrnes would be more convincing to Negroes if they had a party record of opposition to the appointment. They have none, as it appears Minority Leader McNary got as much glee out of rushing the appointment of his South Carolina crony through the upper house as was manifested by Senator "Cotton Ed" Smith.

The Republican Senate record of acquiescence to the Byrnes appointment will be contrasted with Democratic opposition to the appointment of Judge Parker some ten years ago. Democrats fought the Parker appointment, even though they knew that the chief opposition to him came from Negro Americans.

But Senate Republicans are found to be united in support of a man whose public utterances against the Negro race are among the most vicious of any man who has ever served in the Senate. Republicans, we trust, will not have the nerve to make the appointment of Mr. Byrnes an issue in any campaign where they are trying to win Negro votes.

Let the [illegible] appointment rest in peace and let us continue to trust in the Lord who "doeth all things well."

Amsterdam News
New York, N. Y.

Battle Since Slavery Cited

NAACP Has Been in Forefront During Past Twenty-five Years

Important decisions by the United States Supreme Court affecting the Negro began with the famous Dred Scott Case, delivered by Chief Justice Taney shortly before the Civil War.

From the Civil War to the "Grandfather Clause" Case decided in June, 1915, by Chief Justice White marks a period during which the Supreme Court rendered few, if any, decisions of national significance on the issues involving the nation's black population. Protection of the new won freedom and the rights of the Negro was left in the hands of the Congress, with the Supreme Court using its great powers in the twentieth century.

Following the ratification of the Thirteenth Amendment to the Constitution, Congress in 1866 passed the Civil Rights Act, which included in its provisions the right of the Negro to make contracts, to own and convey personal and real property and to sue and be sued in the courts. This measure gave additional force to the Thirteenth Amendment. In 1875, after the ratification of the Fourteenth and Fifteenth Amendments to the Constitution, Congress enacted the Federal Civil Rights Act.

The "Grandfather Clause" Case arose out of the action of the State of Oklahoma in a constitutional amendment denying the right to vote to any one who could not read or write. The amendment also provided that should he be denied the right to vote because he could not read or write, if he lived in some foreign country prior to January 1, 1866, or who was eligible to register prior to that date or whose lineal (ancestor) was eligible as of that date, he was exempted. Before 1866 Negroes were not eligible to vote, so the law actually barred the Negro from the right to vote. In June, 1915, the Supreme Court held the "Grandfather Clause" invalid.

The Texas Primary Cases, Nixon vs. Herndon, decision by Justice Holmes, delivered on March 7, 1927, and Nixon vs. Condon, decision by Justice Cardoza, delivered on May 2, 1932, clarified the position of the suffrage rights of Negro citizens, particularly in the Southern States.

Moving to guarantee a fair trial in the courts of the land, the Supreme Court in its decision in Hollis vs. Oklahoma, 1935, affirmed the principle that the conviction of a Negro by a jury from which all Negroes had been excluded was a denial of due process and void.

In Ellington and Shields vs. State of Mississippi, Chief Justice Hughes in 1936 held that "the rack and torture chamber may not be substituted for the witness stand." This decision declared null and void evidence obtained by the "third degree" or duress. This decision was reaffirmed by Associate Justice Black in the case of Chambers vs. Florida in February, 1940, in which he held that "No higher duty, no more solemn responsibility rests upon this Court, than that of translating into living law and maintaining this constitutional shield deliberately planned and inscribed for the benefit of every human being subject to our Constitution—of whatever race, creed or persuasion.

The Lloyd Gaines vs. University of Missouri case, in an opinion by Chief Justice Hughes in December, 1938, ordered the State of Missouri to admit Negro students to institutions of higher learning or equalize the standards, facilities and educational opportunities for Negroes and whites. This ruling applied to all States in which segregated schools, colleges or universities exist.

In School Board of the City Norfolk vs. Alston, October, 1940, the Supreme Court ordered the equalization of salaries paid Negro and white teachers in the City of Norfolk, Va.

Residential segregation through the device of restrictive covenants was declared unconstitutional in November, 1940, when the High Court over-ruled the Illinois Supreme Court in an opinion delivered by Justice Stone (now chief justice)—in the case of Hansberry vs. Lee, to the effect that restrictive covenants were legal instruments supported by the Constitution and public policy.

A unanimous decision delivered by Chief Justice Hughes in April, 1941, set aside a previous ruling by the Interstate Commerce Commission condoning unequal accommodations on Southern trains. The decision in the case of Mitchell vs. Arkansas held that Negro passengers traveling from one State to another are entitled to the same accommodations as white people. This ruling, which affects Pullman and coach passengers, ignored the briefs filed with the court by ten attorney-generals of the Southern States.

Afro-American
Baltimore, Maryland

Texas the Tough

Two delegates en route from Baltimore and Cleveland to an N.A.A.C.P. convention in Houston, Texas, were ejected from a Pullman coach by a Missouri-Pacific Railroad conductor and compelled to ride jim crow.

It is plain that the Missouri-Pacific hadn't read the Supreme Court's decision in the case of Congressman Mitchell in which it directed provision of Pullman accommodations for all citizens.

Since it hasn't, or won't follow the highest court's ruling, we know of no individuals we'd rather see it antagonize than N.A.A.C.P. delegates, who now know how to fight with both civil and criminal suits.

Aside from this, we are greatly puzzled over why anybody would travel to or through Texas, even to attend an N.A.A.C.P. convention.

New York Age
New York, N. Y.

Death Penalty Of Negro Upset By Supreme Court

WASHINGTON, D. C.—The Supreme Court on Monday reversed the conviction of J. C. Lomax of New Caney, Tex., sentenced to death on a charge of criminally assaulting a white woman.

This action was taken in an order which merely said that the judgment upholding his conviction was reversed in the light of recent Supreme Court rulings on similar cases from Florida and Texas.

Lomax contended that a purported confession had been obtained from him by "duress, coercion and compulsion."

Daily World
Atlanta, Georgia

Justice-Elect Cites Stand In Letter To Columbian

Correspondence Shows Senator Did Not Seek Position

COLUMBIA, S. C. — (ANS) — Senator James F. Byrnes of South Carolina, who was nominated last week by President Roosevelt to the U. S. Supreme Court, and who now is being opposed by the NAACP and several northern newspapers, drew praise as a great leader and, a prediction that he will make as great a Justice as any other person from Seymour Carroll, Field epresentative for the American Iumane Society and 1940 delegate rom South Carolina to the Republican National Convention.

Mr. Carroll, who wired congratulations to the senator upon his nomination, has for sometime been a Byrnes admirer. When the former was selected to the notification committee of Senator Charles L. McNary of Oregon of his choice as vice president on the Republican 1940 ticket, he immediately contacted Senator Byrnes to ascertain whether or not the South Carolinian would run for vice president on the Democratic ticket if it was offered him at the Democratic National Convention a few weeks later in Chicago, stating that if Byrnes would run he would not serve on the McNary committee but would work for the South Carolinian. Later, Mr. Carroll made plans to organize "James F. Byrnes" clubs in South Carolina and several northern cities when it was first hinted that the senator might succeed Justice McReynolds.

DID NOT SEEK COURT DUTY

From one or two letters in Mr. Carroll's files it is clear that Senator Byrnes was not anxious to have the Supreme Court post. When urged in a letter by Mr. Carroll to accept the honor, the senator wrote: "I am not a candidate for appointment to the Supreme Court and even when friends in the Senate have expressed a desire to communicate with the President, requesting my appointment, I have made personal appeals to them that they should not do so. Because of my attitude in the matter, I have refrained as far as possible from even discussing the matter with friends."

ANTI-LYNCHING BILL UNCONSTITUTIONAL

Several months ago when his name was being opposed by the NAACP and newspapers, Mr. Carroll urged the Senator to grant him permission to make public some of the views expressed in his letters so that his real interests might be known. But Senator Byrnes declined the privilege. In citing his stand on the Anti-Lynching Bill, he wrote:

"About a month ago, I was advised by a newspaper correspondent that Walter White had written the President, urging that I should not be appointed because I had opposed the Anti-Lynching Bill on the ground that it was unconstitutional and unwise—unwise because we have made great headway in our fight against mob murder, and a threat of this kind against a Governor and judicial officers might cause unfavorable reaction."

SECURED $10,000 GRANT FOR STATE COLLEGE

In replying to Mr. Carroll's suggestion on "Byrnes Clubs," the senator seemed concerned with criticisms made against him and wrote: "Inasmuch as I am not a candidate, I am not interested in, and could give no encouragement to, any campaign to bring about my appointment. However, I am interested in the effort to misrepresent my attitude toward the Negroes of the Nation and, of South Carolina. When I was a member of the House I did make a point of order against an appropriation for Howard University. There was no law authorizing such an appropriation. I made a point of order against every appropriation which was not authorized by law. I recall that I argued that if, in the absence of law, authorizing an appropriation to an educational institution, money was appropriated to one school, there was no excuse for not appropriating money for the conduct of every other school, whether its pupils be white or colored, in a proper and regular way, a law should be enacted authorizing an appropriation to Howard University, and since then I have never opposed the appropriation for Howard University.

"I really wish that that school might be even more effective in furnishing Negro doctors and dentists to care for the needs of the Negro in the South. As a matter of fact, instead of opposing the education of the Negro, last year when Mr. B. M. Baruch was considering making gifts to some educational institutions, he asked my advice and I suggested that he make a gift to the Negro College at Orangeburg, which he did.

Globe and Independent
Nashville, Tenn.

JUSTICE BYRNES

In his long career as an executive, vested with the power of appointment, it is doubtful that President Roosevelt has ever exercised that power with as big a disregard for "the eternal fitness of things" as when he named Senator James F. Byrnes to the Supreme Court of the United States.

Senator Byrnes got his appointment wholly out of regard for the fact that he has been a politician, wholly dependable in engineering Administration bills through the Senate. His lack of judicial temperament and lack of legal learning belittles the great men, both of the present and of the past, who have been appointed to the Court.

We do not join in the wishful thinking of those Negro editors who hope that Justice Byrnes will prove to be as big a disappointment on the side of tolerance and liberality as Justice Hugo Black. What reconciliation we have over the Byrnes appointment comes from the knowledge that the present Court is so grounded in liberality and has established a series of precedents that will render Mr. Byrnes' bigotry harmless, for the time being, at least.

Our disappointment over the fact that a broad-guaged man like President Roosevelt made the appointment, however, is even less than the disappointment and disgust we have for the Republican leadership of the Senate which facilitated the hurried ratification of the appointment.

Republicans who undertake to "view with alarm" the appointment of Mr. Byrnes would be more convincing to Negroes if they had a party record of opposition to the appointment. They have none, as it appears Minority Leader McNary got as much glee out of rushing the appointment of his South Carolina crony through the upper house as was manifested by Senator "Cotton Ed" Smith.

The Republican Senate record of acquiescence to the Byrnes appointment will be contrasted with Democratic opposition to the appointment of Judge Parker some ten years ago. Democrats fought the Parker appointment, even though they knew that the chief opposition to him came from Negro Americans.

But Senate Republicans are found to be united in support of a man whose public utterances against the Negro race are among the most vicious of any man who has ever served in the Senate. Republicans, we trust, will not have the nerve to make the appointment of Mr. Byrnes an issue in any campaign where they are trying to win Negro votes.

Let the Byrnes appointment rest in peace and let us continue to trust in the Lord who "doeth all things well."

Constitution
Atlanta, Georgia

Jury Exclusion Recognized by Supreme Court

Race Question Should Be Raised at Time of Trial, Is Ruling.

The question of arbitrary and systematic exclusion of Negroes from juries must be raised at the time of trial if it is to have any legal value, the Georgia supreme court ruled yesterday.

Although the tribunal denied a new trial for a Cobb county convicted rapist, sought on the contention of jury exclusion of Negroes, it did order a rehearing on a habeas corpus case on grounds the defendant was deprived of benefit of counsel. The Fulton court had denied the habeas corpus.

The supreme court asserted its familiarity with various rulings of the United States supreme court that jury exclusion of Negroes constitutes denial of equal rights guaranteed by the fourteenth amendment, but said:

"A complaint that Negroes were systematically and arbitrarily excluded from the jury lists from the county in which the Negro was convicted does not present a good ground for habeas corpus. An objection of this kind should have been presented in a proper way at the trial and upon failure to do so it is to be considered waived."

The Negro was sentenced to death.

14-1941

Argus
St. Louis, Missouri

THE SUPREME COURT

The national office of the National Association for the Advancement of Colored People has sent out an SOS to its branches calling on the members to protest the appointment of Senator James Byrnes of South Carolina as a member of the United States Supreme Court to fill the place which will shortly be made vacant by the retirement of Justice James C. McReynolds.

JAN 31 1941

The Association states that it has been reliably informed that President Roosevelt is considering the appointment of Senator Byrnes to the nation's highest judicial body. One of the reasons given by the Association for its opposition to Mr. Byrnes is that he is endorsed by such men as Carter Glass of Virginia, Pat Harrison of Mississippi, and Alben Barkley of Kentucky, all of whom are regarded as Negro haters.

JAN 31 1941

In the meanwhile press reports say that Judge John J. Parker of North Carolina will be the next member of the United States Supreme Court, it being remembered that Judge Parker is the only man that ever failed of confirmation by the Senate after being appointed to the United States Supreme Court by the President. At that time the N.A.A.C.P. was one of the chief opponents of Judge Parker's appointment. As a matter of fact the Association claimed credit for having defeated Judge Parker by one vote in the Senate after President Hoover had nominated him to the high office of associate justice of the United States Supreme Court.

Thus it looks as though we are between the devil and the deep blue if the President has made up his mind to appoint either Senator Byrnes or Judge John J. Parker to succeed Justice McReynolds on the Supreme Court bench.

Daily World
Atlanta, Georgia

Wm. L. Dawson Suggested For Supreme Court

FEB 7 1941

WASHINGTON, D. C. (ANP) Declaring that "your" unprecedented third term calls for unprecedented action, the National Negro council this week asked President Roosevelt to name Attorney William L. Dawson of Chicago, Democratic Second Ward committeeman, to the supreme court vacancy caused by the resignation of Justice McReynolds.

Decision to ask the appointment of Dawson was made at a council meeting Friday evening and a committee was named to call on the President Wednesday and suggest name of Dawson. Members of the committee were Edgar Brown, Rev. C. T. Murry, Victor V. Jones, Bishop R. R. Wright, Jr. and Miss Jeanette Welsh.

FEB 7 1941

The council said that inasmuch as other minorities are represented on the supreme court, it would be only just and fair for a Negro to be named. Dawson, it was pointed out, had won an enviable reputation as a practicing attorney and for several years had been second ward alderman.

Kansas City Call
Kansas City, Mo.

Justice Is Better Than Favor

FEB 7 1941

The decisions of Hugo Black, associate supreme court justice, since his elevation to that high post warn us against ever again saying that any man, by reason of being a southerner, is unfit to be a judge. For that reason we are reluctant to join the pack that is opposing the appointment of Senator Byrnes of South Carolina.

It is true that Byrnes, the politician, has been anti-Negro and as a result of that bias is not the man we would pick to judge issues affecting Negroes. But so was Black, who has confounded his opposition by decisions confirming the jury system, the one refuge of the weak which more than all else arms Negroes to defend their rights.

This thing of Negroes condemning all white southerners is exactly as indefensible as its counterpart, prejudice, which condemns all Negroes. Neither is it sensible to insist that public officials "like" Negroes. Within a family there are favorites, which is another way of saying that people who by blood and propinquity are due to "like" each other, do not always do so.

The test to put upon a public man is not what he thinks of others, but what he thinks of himself. If he hates evil and injustice, if he would see the world made better, that's enough, — he will do justice out of respect for himself regardless of what he thinks of the persons involved. It is more to the point that Senator Byrnes be a real lover of democracy and the Constitution than that he "like" the persons who share its benefits with him.

In other words, we fear the man whose position is based on his feelings, be he for us or against us. That ground is shifting sand. Give us the man who seeks the right! Though he make mistakes at times, conviction guided by that polar star will bring him back to truth.

FEB 7 1941

At the moment this paper is engaged in an effort to make the local police force treat Negro citizens with the respect and consideration it expects from them in return. That's a fair exchange. Suppose instead, we insisted that the police, from rookie to chief "like" us. The very essence of justice is that it regards not the individual.

Chicago Defender
Chicago, Illinois

JUSTICE McREYNOLDS

We are unable to register kind sentiments on the occasion of Justice McReynolds' retirement from the United States Supreme Court. Besides a deep-rooted antagonism to liberal interpretation of the Constitution, he, more than any other member of the old court, has sought in various decisions to deny the Negro the right to protection as provided under the law.

FEB 15 1941

In the Scottsboro case, in which the majority of the court held that the exclusion of Negroes from jury service was a violation of the constitutional right of the defendants, McReynolds dissented. In the Angelo Herndon case, he dissented. In the Gaines case versus the University of Missouri law school, again he dissented. On the other hand, when Wall Street's barons were defendants in any litigation, they could always rely on Justice McReynolds' opinion.

It is a weakness of our system that a high tribunal which is entrusted with the delicate and far-reaching power of interpreting and safeguarding our constitutional guarantees, should have on its bench a man as lacking in social vision and as reactionary as McReynolds. If the Constitution is to be used as an instrument for the protection of rights, if it is to serve as a check against unwarranted invasion of civil liberties, it must remain in the hands of men whose philosophy is not at variance with the basic principles of that historic document.

Senator James F. Byrnes, one of the leading contenders for the vacancy on the bench, is a southern conservative of views are known to be detrimental to our best interests. For if the Negro Roosevelt to appoint him to the post from which another southerner of the same stamp has just retired would be thoroughly liberalized Supreme Court.

While we may not be able to influence the decisions of the court, we can, however, exert the necessary pressure against the appointment of men whose entertains any hope of attaining the full stature of democratic manhood, such a hope can be realized only through a equivalent to swapping the devil for the witch.

Chester, S. C., Reporter
March 3, 1941

Fighting Byrnes

Greenwood Paper Wants To Know If F. D. R. Will Let Him Down.

A report from Washington and New York tells of a definite fight started by the National Association for the Advancement of Colored People to prevent the nomination of Senator James F. Byrnes of South Carolina, to the vacant place on the Supreme Court of the United States.

The fight launched by the National Association for the Advancement of Colored People is headed by its principal officer, Secretary Walter White. White's activity in behalf of the Federal Anti-Lynching bill some years ago was denounced on the floor of the senate by Senator Byrnes. White apparently cherishes the resentment he developed at that time and he proposes to use the really powerful political influence of his organization to "get" Byrnes.

To be sure, President Roosevelt has not named Senator Byrnes and has given no public intimation that he will do so, but it is generally believed by political observers that Byrnes is the man President Roosevelt wants to name.

Senator Byrnes was let down terrifically at the Chicago Democratic convention from statements by those in closest touch with the inside machinery of that convention. President Roosevelt could have made Byrnes the party's candidate for Vice President, but he did not do so. He gave the nod to Wallace.

If now Senator Byrnes is let down the second time it will be a blow indeed.

Walter White's politically potent organization might not be able to block the nomination, but he could try to block confirmation in the senate. That would apparently, be an impossible move. Senator Byrnes is one of the most popular senators, personally, in the senate. Republicans as well as Democrats like him greatly.

It is up to President Roosevelt, it would appear.

Is Senator Byrnes to be given a reward he has more than earned or is he to be sacrificed to the colored vote of the North and East as exemplified in the Association for the Advancement of Colored People? —Greenwood Index-Journal.

Greenville, S. C. Piedmont
February 19, 1941

Fighting Byrnes?

The following is from The Greenwood Index-Journal:

A report from Washington and New York tells of a definite fight started by the National Association for the Advancement of Colored People to prevent the nomination of Senator James F. Byrnes, of South Carolina, to the vacant place on the Supreme Court of the United States.

The fight launched by the National Association for the Advancement of Colored People is headed by its principal officer, Secretary Walter White. White's activity in behalf of the Federal Anti-Lynching bill some years ago was denounced on the floor of the Senate by Senator Byrnes. White apparently cherishes the resentment he developed at that time and he proposes to use the really powerful political influence of his organization to "get" Byrnes.

To be sure, President Roosevelt has not named Senator Byrnes and has given no public intimation that he will do so but it is generally believed by political observers that Byrnes is the man President Roosevelt wants to name.

Senator Byrnes was let down terrifically at the Chicago Democratic convention from statements by those in closest touch with the inside machinery of the convention. President Roosevelt could have made Byrnes the party's candidate for Vice President but he did not do so. He gave the nod to Wallace.

If now Senator Byrnes is let down the second time it will be a blow indeed.

Walter White's politically potent organization might not be able to block the nomination but he could try to block confirmation in the Senate. That would, apparently, be an impossible move. Senator Byrnes is one of the most popular senators, personally, in the Senate. Republicans as well as Democrats like him greatly.

It is up to President Roosevelt, it would appear.

Is Senator Byrnes to be given a reward he has more than earned or is he to be sacrificed to the colored vote of the North and East as exemplified in the Association for the Advancement of Colored People?

Washington Tribune
Washington, D. C.

Bar of Prejudice Lowered

MAR 22 1941

Like the love that goes out the window when poverty comes in the door, when maintenance of the law library which excluded Negroes was reduced to a matter of dollars and cents, the bar of prejudice was lifted.

Ordered either to open their doors to all members of the District bar by April 1 or remove their library from the public-owned building which now houses it, the members of the law association were practically forced to abandon their former stand. Not only was the cost of removal which ran upward of $50,000 cited as a prohibitive feature, but a two-third majority of the white barristers were unwilling to withdraw from convenient use of the judges the library facilities which have been available to them for decades. The whole incident is a striking example of the artifice and folly upon which all prejudice is based.

The intial order to open the library to colored lawyers and women lawyers, who were formerly barred because they were not members of the bar association was issued by the Attorney General on February 12. The ultimatum came later and just before the Department of Justice memorandum to the Supreme Court last week upholding the constitutional rights of colored people to the same accommodations provided white passengers or railroad trains.

The Supreme Court decision on the Mitchell case is more eagerly awaited than any which has ever involved the rights of Negroes. MAR 22 1941

The liberal interpretation of the Attorney General is the basis for increasing belief that the highest tribunal in the land will uphold the Mitchel appeal. As revolutionary as that would be, little less could be done in consonance with the democratic ideals which America is spending billions to defend at home and abroad.

Supreme Court Will Reconsider Murder Case

MAY 5 - 1941

Washington, May 5—(AP)—The Supreme Court agreed today to reconsider its recent four-to-four decision upholding the wife murder conviction of Robert S. James, Los Angeles barber at whose trial two live rattlesnakes were displayed to the jury. Nashville Banner

In his petition for rehearing, James contended that "No death penalty should be imposed through what is really a lack of decision by the highest court of the nation."

He asserted that "where constitutional questions are involved in the conviction and death sentence of a man of rehearing ought to be granted so that the case may be decided by a majority of the court." Nashville Tenn

The four-to-four decision was made possible by the retirement last February 1 of Justice James C. McReynolds. The tribunal has granted rehearings in several other cases decided by an evenly divided vote.

The State alleged that James drowned his wife in a bathtub, as part of a plan to collect insurance, after failing to produce death by thrusting her foot into a box containing two rattlesnakes.

The Supreme Court assigned the case for argument next October 13. MAY 5 - 1941

Reversed the conviction of J. C. Lomax, New Caney, Texas, Negro sentenced to death on a charge of criminally assaulting a white woman. The Negro contended a purported confession had been obtained from him by "duress, coercion and compulsion."

Ordered the reargument of litigation to determine the constitutionality of California legislation which prohibited anyone from assisting nonresident indigent persons to come into the State.

Ruled that the Federal Employers' Liability Act permits damages for injuries received by a fireman, even though he had failed to make the engineer on his train understand a warning of danger just before crashing into the rear of another train. Justice Burphy delivered the unanimous decision.

Pittsburgh Courier
Pittsburgh, Pa.

HIGH COURT TO RULE ON SLAVE 'LAW'

ATLANTA, Ga., June 12—(ANP)— Georgia's so-called "peonage law," under which tenants and day laborers may be sent to jail for failure to repay advances made by their employers, is soon to be tested in the United States Supreme Court, according to advices received from Washington by Atlanta attorneys handling the matter for the Commission on Interracial Cooperation. JUN 14 1941

The case involved is that of a Negro, Ira Taylor, who lived on the farm of R. L. Hardie in Wilkinson county. Last year Hardie had Taylor arrested and fined; then lent him $19 with which to pay the fine, on Taylor's agreement to work for Hardie and repay the money. When Taylor failed to carry out this contract, because of sickness he claimed, Hardie prosecuted him for fraud under the "peonage law" and had him convicted and sentenced to eight months imprisonment.

At this point the case was brought to the attention of the Commission on Interracial Cooperation by Taylor's lawyer, Atty. T. T. Purdom of Sparta. The Commission saw in it a favorable opportunity to test the constitutionality of the law and asked Leonard Haas, prominent Atlanta attorney, to work with Mr. Purdom in carrying the case up through the courts.

Appealing first to the Georgia Supreme Court, their plea was denied on the ground that Taylor's conviction was punishment for fraud and not for debt. The case was then appealed to the United States Supreme Court, where the effort will be made to have the law thrown out as in violation of the 13th amendment. JUN 14 1941

One other state, Florida, has a similar law, which, like that of Georgia, is used to intimidate debtors and hold them on their jobs.

14-1941

Greenwood, S C Index-Journal
February 21, 1941

"APPOINT BYRNES OR INSULT THE SOUTH"

From the News and Courier.

Square dealing with the South, with South Carolina, demands that President Roosevelt say, say now, whether or not he will appoint James F. Byrnes to the United States supreme court.

Conditions have changed since the president's indication, to the friends of Byrnes, that he would appoint Byrnes.

A fight on Byrnes has begun and is going on. The Northern negroes are fighting him because he opposed the anti-lynching bill, filibustering against it. The president's wife lobbied for that bill. The president could have killed it with a word, which he did not speak.

The Northern "liberals" are fighting Byrnes. The Nation, the New Republic, are opposed to his nomination.

Refusal of the president to appoint Mr. Byrnes would be the president's unconditional, confessed and abject surrender to these people.

Nothing is in the way of the president announcing that Mr. Byrnes will be appointed and his retention of the senatorship three months or six months. In midsummer 1887 President Cleveland offered L. Q. C. Lamar, secretary of the interior, appointment to the supreme court but requested him not to leave the cabinet until the end of the year. Mr. Lamar complied with the request until he learned that Republicans would try to defeat his confirmation. Then, believing that one should hold no executive office with a contest to a judicial office before him, he insisted upon the acceptance of his resignation of the secretaryship late in November.

The president has got to appoint Mr. Byrnes to the supreme court or slap the South in the face. He can announce the appointment tomorrow morning, and Mr. Byrnes can remain in the senate as long as the president needs him—unless he has the sense of propriety of a Lamar.

As for a slap in the face, The News and Courier is not so sure that South Carolina would resent it as long as the offices and allotments are handed out.

Greenwood, S C Index-Journal
February 17, 1941

FIGHTING BYRNES?

A report from Washington and New York tells of a definite fight started by the National Association for the Advancement of Colored People to prevent the nomination of Senator James F. Byrnes, of South Carolina, to the vacant place on the Supreme Court of the United States.

The fight launched by the National Association for the Advancement of Colored People is headed by its principal officer, Secretary Walter White. White's activity in behalf of the Federal Anti-Lynching bill some years ago was denounced on the floor of the Senate by Senator Byrnes. White apparently cherishes the resentment he developed at that time and he proposes to use the really powerful political influence of his organization to "get" Byrnes.

To be sure, President Roosevelt has not named Senator Byrnes and has given no public intimation that he will do so but it is generally believed by political observers that Byrnes is the man President Roosevelt wants to name.

Senator Byrnes was let down terrifically at the Chicago Democratic convention from statements by those in closest touch with the inside machinery of that convention. President Roosevelt could have made Byrnes the party's candidate for Vice President but he did not do so. He gave the nod to Wallace.

If now Senator Byrnes is let down the second time it will be a blow indeed.

Walter White's politically potent organization might not be able to block the nomination but he could try to block confirmation in the Senate. That would apparently, be an impossible move. Senator Byrnes is one of the most popular Senators, personally, in the Senate. Republicans as well as Democrats like him greatly.

It is up to President Roosevelt, it would appear.

Is Senator Byrnes to be given a reward he has more than earned or is he to be sacrificed to the colored vote of the North and East as exemplified in the Association for the Advancement of Colored People?

Spartanburg S C Journal
February 22, 1941

Negro Leader for Byrnes' Elevation To Supreme Court

Congressman Mitchell Praises Attitude Toward Race

WASHINGTON, Feb. 22.—The only negro member of congress Arthur Mitchell of Chicago, has indicated that he is in favor of the appointment of Senator James F. Byrnes of Spartanburg to the supreme court.

Congressman Mitchell, when approached on the question, said that he had known Senator Byrnes for a number of years, and thought he would make a splendid justice.

"Years before I came to congress, I knew Senator Byrnes," he said. "My contacts with him date back to the days when he himself was a congressman, and before I had thought of running for congress. I always found him exceedingly fair and reasonable in his consideration of questions affecting our race, and I am sure he would carry the same consideration and fairness with him to the bench. I think he would make a splendid justice."

One factor that has done much to dissipate any threatened concerted movement against the appointment of Senator Byrnes is the record which Justice Hugo Black has achieved in his decisions of problems affecting the negro race. At the time of Black's appointment there was considerable opposition to him among some negro leaders, but his record on the bench has now won practically all of these over to him, and they now consider him one of the fairest and friendliest of the justices to the negro people.

In the meantime, there still is no tangible evidence here that Senator Byrnes is to be appointed.

The resignation of A. G. Keeney, former publisher of the Spartanburg Herald-Journal from his secretarial staff, was taken as such evidence in some quarters, but it was well known here that Keeney had been seriously considering returning to newspaper work long before the Senator's name came up in this connection.

The rumor has gone about Capitol hill that other members of the senator's staff have been discreetly inquiring about jobs elsewhere, but those who know Capitol hill know that this might as well as not be a rumor that grew out of the other rumor that the senator might be appointed.

There is no question that Senator Byrnes is eminently qualified and that the President is indebted to him. But if Senator Byrnes is named to the high bench, that presents the President with the problem of finding someone else as adroit as Senator Byrnes in guiding administration legislation through the senate. That will be quite a problem, and no doubt has weighed perhaps heavier than any other factor in the President's decision as to whether or not he should appoint Senator Byrnes.

Attorney-General Jackson is, next to Senator Byrnes, most prominently mentioned for the post. There is strong reason to believe that the President has great political ambitions for the youthful New Yorker which might be furthered by his appointment to the Supreme court.

But because of this, there is a feeling that Roosevelt would rather give Jackson the chief justiceship, which give him an even better spot in the limelight, and leave the other justiceship open to Senator Byrnes or someone else. There has been persistent belief for some time that Chief Justice Hughes would resign shortly, thus leaving the door open for this possibility, and it is highly possible that the President's announcement on the justiceship will be held up until it is definitely determined what Justice Hughes will do.

News
Birmingham, Ala.

G. O. P. Senators Back Byrnes For High Court

MAR 16 1941

WASHINGTON — (AP) — Senate Republicans, it was learned Saturday, have advised President Roosevelt that they unanimously favor the appointment of Senator James F. Byrnes (D., S. C.) to the Supreme Court.

MAR 16 1941

Authoritative informants said this expression from Byrnes' Republican colleagues was conveyed to the White House by Minority Leader McNary (R., Ore.).

A Supreme Court seat has been vacant since the retirement of Associate Justice James C. McReynolds Feb. 1. Byrnes frequently has been mentioned for the post, and several legislators have declared his appointment was certain.

It was reported Saturday President Roosevelt might make the nomination early next week, but one informant said it was not definite that Byrnes would be named. This legislator said he believed the selection was a tossup between Byrnes and Atty. Gen. Robert H. Jackson.

Charleston S. C. News & Courier
February 1. 1941

For What You Get You Vote

"Washington, January 30.—(A.P.): Associate Justice Frankfurter of the supreme court, about 11 o'clock tonight, granted a stay of execution for Joe Vernon, negro convicted of murder, who was to have paid the death penalty between this midnight and dawn tomorrow in Kilby prison, Montgomery, Alabama. Justice Frankfurter acted after frantic last-minute efforts by Leon A. Ransom, counsel for the National Association for the Advancement of the Colored People. . . ."

In the last seven or eight years the United States supreme court has interfered to prevent punishment of negroes after conviction in the Southern States of Alabama, Texas, Florida, perhaps other states.

The federal government, the Roosevelt administration, with a supreme court containing a majority of President Roosevelt's appointees, now proceeds on the assumption that the Southern states cannot be trusted to govern themselves, that they persecute the negro race, that its duty is to save the negroes from the cruelties of barbarous Southern state courts and juries.

The Association for the Advancement of the Colored People, largely financed by Northern white "liberals," is powerful if not controlling in the Roosevelt administration in all questions relating to the negroes.

The Southern states have been stripped of their independence, of their "sovereignty."

In South Carolina no negro convicted of murder or other capital crime is likely to be executed if his case shall catch the attention of the Walter White society. This Walter White has for active helper and lobbyist in the "anti-lynching bill," pending in congress and only defeated, so far, by the filibuster of Senator Byrnes and others, President Roosevelt's wife. That bill could be killed by a word from the president, which he dares not or does not wish to speak.

This federal government is the government which you South Carolinians vote for, if you vote.

While your state, South Carolina, and its courts have been reduced to this humble, lowly and contemptible condition by the federal courts, your South Carolina delegation in congress is not only helpless, but, for the most part, mute.

Nor have you any "leaders" in South Carolina that are speaking out for South Carolina. There is fear, deep, paralyzing fear, that if they resist the threat to their state, the money, the subsidies, the offices, will be cut off.

The News and Courier is almost the lone voice in South Carolina that tells you that another negro "Reconstruction" period for the South has started—conducted with insidious skill.

You South Carolinians would as well make up your minds that you are to have equality of the races under the planning of the Roosevelt administration, and of course, if you wish to support it, to vote for it, it is your right to do so.

But you won't shut your eyes and deafen your ears to the naked facts if The News and Courier can prevent it.

Tribune
Philadelphia, Pa.

Senator Byrnes Might Make Good Justice Of U. S. Supreme Court

MAR 27 1941

AS STRANGE as it may seem, we are not so sure that United States Senator James Byrnes of South Carolina would not make an excellent Justice of the United States Supreme Court.

We make this observation, despite the fact that his background is one of intolerance.

We are remembering the unkind things we said about Hugo Black of Alabama. It was impossible for us to conceive of anything good coming from that benighted section of America.

It so happens that Justice Hugo Black has written opinions affecting the rights of colored citizens that surpass those of any Supreme Court Justice in the history of America.

Justice Black has knocked the pins from under the Dred Scott decision. He has made the 14th Amendment a living instrument. He has been more courageous in his opinions concerning justice for colored Americans than all the so-called friends of colored citizens born above the Mason-Dixon Line.

MAR 27 1941

Here is something that deserves the careful consideration of colored people: Fair-minded southern white men are more firm and determined in their advocacy of justice for colored people than are their northern brothers. In fact, when a southerner is convinced of his position he fights for it though the gates of hell arise in protest.

There are no halfway measures with them. They are not appeasers. Some northern white people will tell you how much they love you and at the same time permit you to starve to death. If a southerner likes you, there is nothing he will not do to protect you.

Justice Hugo Black is convinced that his former position was wrong on the color question. He has the courage and the fortitude to say and do everything possible to see that colored Americans become real Americans as provided for in the Constitution.

It is possible that Senator Byrnes will do the same thing. In all events, if he reaches the conclusion that colored Americans should receive even-handed justice he would not be too timid to say so, like so many of his northern contemporaries.

MAR 27 1941

If Justice Black of Alabama can rise to great heights of human dignity, so can Senator James Byrnes of South Carolina. Who knows? All white southern people are not mean, rabid Negro-haters. If Byrnes turns out to be the same kind of Justice of the Supreme Court that Hugo Black is, American colored citizens will be able to secure decisions within the purpose and intent of the 13th, 14th and 15th Amendments to the Constitution.

Telegraph
Macon, Georgia

Negro Bound To High Court

APR 29 1941

Appearing in recorder's court yesterday, a Negro booked as [illegible]lie Lee Searcy was committed to Bibb county superior court under $450 total bond on charges of assault with intent to murder and carrying a pistol concealed and without a license and was dismissed on a charge of shooting in the city.

PR 29 1941

Ordered to pay $50 fines or serve 60 days in city stockade for drunken driving were Elbert Malcolm and Eddie Rainey and Columbus Booker, both Negroes.

Malcolm was also ordered to pay $10 or serve 20 days for violating rules of the road.

APR 29 1941

Frank [Buster] Wright, 18, Negro, 269 Arlington alley, was bound over to city court under $150 bond on a larceny charge and M. L. Stafford was committed to the same court under $50 bond on a charge of driving a car without a license.

John Gardner and Charles Dix, arrested Sunday 12 hours after they allegedly had escaped from the stockade, were delivered to Bibb sheriff on charges of escaping confinement.

APR 29 1941

14-1941

Globe and Independent
Nashville, Tenn.

PRESIDENT ROOSEVELT DISAPPOINTS HOPES OF NEGRO CITIZENS

14

The Byrnes Nomination Casts Gloom Over the Negro World—A Record of Intolerance and Bigotry

By EMMETT J. SCOTT

WASHINGTON, D. C.—The nomination of the Honorable "Jimmie" Byrnes of South Carolina was confirmed as an Associate Justice of the Supreme Court of the United States in eleven minutes after it reached the U. S. Senate on June 12.

The delicate finesse employed in placing this reactionary Southerner on the bench was equalled only by the adroit handling of the nomination of Mr. Hugo Black when his name reached the Senate August 12, 1937. He was confirmed 5 days thereafter.

JUL 11 1941

The machinery for Senatorial-courtesy action was all greased, apparently in advance. Sen. Carter Glass of Virginia was instantly on his feet to propose confirmation, and so, under Senatorial tradition, when a Senator is named for a new position, it went through like greased lightning.

A BIT TOO SMART

It was all very smart. History, maybe, will record that it was a bit too smart, for it indicated there was no disposition to have the fitness of this nominee discussed in an open session of the Senate.

In the case of that other Senatorial nominee, Mr. Black, Mr. Roosevelt was not advised beforehand, it is said, of Mr. Black's former Ku Klux Klan affiliations until an enterprising newspaper reporter broke the news by publishing Mr. Black's application for membership in the malodorous organization. Then followed the full revelation.

Mr. Byrnes' record for intolerance and bigotry and hatred of certain American citizens however was, and is, well known. Lack of knowledge of that record cannot be averred or pretended.

As a militant organization for full citizenship rights for all classes of our population said in a telegram to the President: "Mr. Byrnes' record has been one of uncompromising opposition to any and every form of justice to and equal treatment of the American Negro and to certain minorities as well."

That record was formally presented to the White House months ago—as soon as rumors began to circulate that Mr. Byrnes was being considered for this exalted post. It is a record no man sworn to support and defend the Constitution of the United States should have.

JUL 11 1941

Congressionally speaking this latest nominee for a seat on the bench of the Supreme Court of the United States was ever to the fore in scourging "immigrants" who came here seeking respite from the oppressions of the Old World, despite the fact that members of his own family had come to America seeking opportunities not to be found in the land of their birth.

Also, following the pattern of demagogic Southern Democratic politicians, Mr. Byrnes elected to damn Negroes on every occasion possible so as to commend himself to the favor of his collective, bucolic constituency.

A REACTIONARY POLITICIAN

We have referred to him as a reactionary politician. He fought favorable Child-Labor legislation, Suffrage for Women, the Wage-Hour Bill, appropriations for Negro education, the Anti-Lynching Bill, and practically every progressive measure designed to make this a land worth living in.

His special venom and passionate oratory were reserved for Negroes. Always alert, he opposed Federal appropriations for Howard University, by making his little "points of order" whenever that appropriation came before Congress, until he was disarmed by a bill put through a Republican Congress by Republicans and approved by a Republican President, Calvin Coolidge, authorizing statutory legislation for such appropriations.

JUL 11 1941

He spoke for and voted for Jim-Crow policies in recent Army legislation and sought to negative every provision that would "prevent discrimination against persons on account of race and color." These samples will suffice to reveal his prejudiced, jaundiced mind:

They (immigrants) have no capacity for assimilation with our white people. They must have some society, and we fear they would turn to the Negro race, mingle with them, and so aggravate our Race Problem as to make it hopeless.

If the Negro does not care to live in this land without political and social equality, then he can depart for any other country he wishes . . . There are in this country 90,000,000 white people determined not to extend political and social equality to the 10,000,000 Negroes.

As a Supreme Court Justice, Mr. Byrnes will be compelled to take this oath:

I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully discharge all the duties incumbent on me as Judge, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States.

As President of the United States, Mr. Roosevelt, on January 20, 1941, for a third time, took this oath:

I do solemnly swear that I will faithfully execute the office of President of the United States and will to the best of my ability, PRESERVE, PROTECT, and DEFEND the Constitution of the United States.

JUL 11 1941

Is it a fair question: Will the nomination of Mr. Byrnes by Mr. Roosevelt enable the President and the Congress to "preserve, protect and defend" the Constitution of the United States?

Black Dispatch
Oklahoma City, Okla

THE NEGRO STANDS WITH THE UNITED STATES SUPREME COURT

AUG 16 1941

(By Jesse O. Thomas for ANP)

In the midst of the controversial discussions which have recently centered around the Negro's educational status we don't want to become confused on the real issues involved, so far as the educational future of the Negro youth of this state is concerned. The temptation to go off on tangents and way from the basic issues is ever present.

AUG 16 1941

In Lake Charles, La., a neighbor's dog came home crying with a scalded back. The owner remonstrated with her neighbor in an effort to fix responsibility or establish justification for the little dog's hazard. The accused neighbor first denied having thrown hot water out of the window on the little dog. As the argument ensued, however, she admitted having scalded the dog and justified it on the basis that the dog should have kept on the owner's premeses. The owner rejoined, "I tried to teach my dog to stay away from trash." Then in rapid succession as the argument grew hotter and hotter: "Who you calling trash?" "You are nothing yourself; your mammy before you was nothing." "Don't you talk about my mammy." All the time approaching each other, and finally came to blows.

If the argument had been confined to the zone of its origin some treaty might have been agreed upon which would have protected the little dog in the future, even tho he might have wandered off the premises of his owner. However, they fought about their mammy and the status of the poor little dog remained unchanged.

The supreme court of the United States has ruled in the case of Gaines versus the University of Missouri or the state of Missouri that Negroes shall receive from the state and in the state education in kind and degree on a graduate level with that provided for other racial elements. The impression I have gained in conversation with Negroes in Georgia on public platform, in private homes, on street corners and barber shops, is that they are in complete harmony with the decision of the supreme

urt and are willing to permit the State of Georgia to decide which nethod it will adopt in compliance with the mandate of the supreme court. The question of where the Negro shall sit isn't disturbing

Office of Production Management.

Coming to the controversial point, he said: "Simply stated, the march was postponed because its main objective, namely the issuance of an executive order banning discrimination in national defense, was secured in conference with the President.

"What about discrimination in the departments of the federal government? This was one of our objectives. While it was one of our objectives, it was not our main objective. We consider that it is more important to get jobs for Negroes in national defense, so that they may get milk and bread for their babies than to get them in the army or navy or air corps, although we shall continue to fight to abolish discriminations in all departments of the government and the armed forces of the nation. This will be the next step in the fight of the march committee movement.

Washington Post
Washington, D. C.

Supreme Court Denies Review for Condemned Youth

DEC 9 - 1941

By the Associated Press

Joseph R. Mickens, a 15-year-old Waynesboro (Va.) Negro sentenced to die for rape, failed yesterday to obtain a Supreme Court review.

Justice Murphy dissented, holding that a petition for review should be granted.

A stay of execution previously granted by Chief Justice Stone was vacated.

DEC 9 - 1941

The Negro was convicted of raping a white woman at Waynesboro.

The youth had been sentenced to die on December 5 but six days before that date Chief Justice Stone granted a stay of execution to permit him to appeal to the Supreme Court.

Kansas City Call
Kansas City, Mo.

Negro Stands With Supreme Court, Says Jesse O. Thomas

By JESSE O. THOMAS

In the midst of the controversial discussions which have recently centered around the Negro's educational status we don't want to become confused on the real issues involved, so far as the educational future of the Negro youth of this state is concerned. The temptation to go off on tangents and away from the basic issues is ever present.

In Lake Charles, La., a neighbor's dog came home crying with a scalded back. The owner demonstrated with her neighbor in an effort to fix responsibility or establish justification for the little dog's hazard. The accused neighbor first denied having thrown hot water out of the window on the little dog.

AUG 1 5 1941

As the argument ensued, however, she admitted having scalded the dog and justified it on the basis that the dog should have been kept on the owner's premises. The owner rejoined, "I tried to teach my dog to stay away from trash."

Then in rapid succession as the argument grew hotter and hotter: "Who you calling trash?" "You are nothing yourself; your mammy before you was nothing." "Don't you talk about my mammy." All the time approaching each other, and finally came to blows.

AUG 1 5 1941

If the argument had been confined to the zone of its origin some treaty might have been agreed upon which would have protected the little dog in the future, even though he might have wandered off the premises of his owner. However, they fought about their mammy and the status of the poor little dog remained unchanged.

The supreme court of the United States has ruled in the case of Gaines versus the University of Missouri or the state of Missouri that Negroes shall receive from the state and in the state education in kind and degree on a graduate level with that provided for other racial elements.

The impression I have gained in conversation with Negroes in Georgia on public platform, in private homes, on street corners and barber shops, is that they are in complete harmony with the decision of the supreme court and are willing to permit the state of Georgia to decide which method it will adopt in compliance with the mandate of the supreme court.

The question of where the Negro shall sit isn't disturbing him. He is interested in when he shall sit, where the same opportunity to receive graduate instruction in all of the branches of education which are provided for other race elements at the University of Georgia is made available to him and his children.

Second, he is concerned about the equalization of the salaries of Negro teachers for the same grade of work, the same training, experience and on the same basis of unit production. The Negro citizens are interested in having equal provision and equipment provided for the Negro youth on all educational levels with that provided for children of other tax paying populations.

Let's confine this discussion to the "injured puppy" and leave the "Mammy" out of consideration as we take our stand on the American Bill of Rights and rest our case on the decision of the highest tribune in the nation.

14-1941

Palmetto Leader
Columbia, S. C.

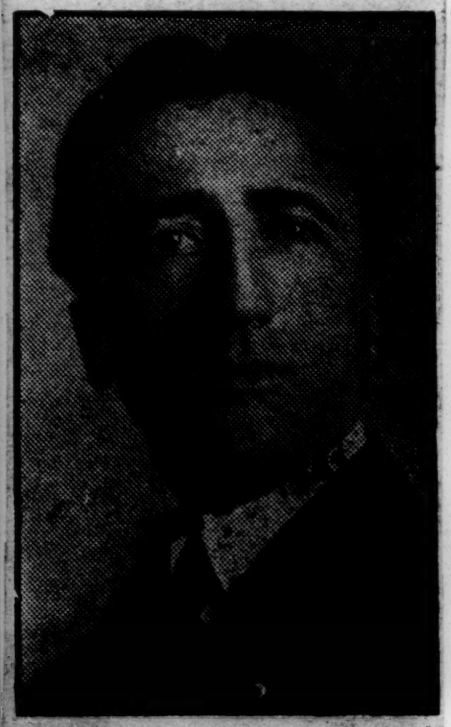
SOUTH CAROLINA SIGNALLY HONORED

Senator James F. Byrnes Appointed Supreme Court Justice

By W. R. Bowman

Columbia, June 18th—South Carolinians, regardless of race or creed are rejoicing over the elevation of Senator James F. Byrnes to the United States Supreme Court. We have watched his career for many years and found him to be honest to the core and sincere, standing head and shoulder above his peers, when it comes to national issues that concern the majority of people.

When this news editor was



SENATOR JAMES F. BYRNES
(Photo Courtesy Columbia Record)

principal of the Bethel school at Blythewood in Richland county, the late Mr. J. M. Holley, who was chairman of the Board of trustees and reputed to be worth a half million dollars and who was as I understand, the father-in-law of Senator Byrnes told us many times in his office that "Jimmy" as he called him would be South Carolina's National leader. Though Mr. Holley is dead, his prophecy has come true.

Senator Byrnes was wise, in that he did not interfere with state or local politics, continue to make friends by the thousands by helping those to get what they wanted and kept himself bend toward National recognition and finally became President Roosevelt's able and most effective senate champion of the new deal.

So far as the Negroes of South Carolina are concern, we have no tears to shed in his elevation and have reasons to believe that Judge Byrnes has had the experience and contacts to take care of any situation that may arise in the supreme court.

This news editor wishes that the Northern and Western Negro papers will not make a tirade on him because he is from the deep South as many did on Justice Black, wait editors and see what you will see before writing editorials concerning him. Believe or believe it not some good things can come out of Nazareth.

We are publishing below a letter to our President from Congressman Mitchell. Read it, its our sentiment and its self explanatory.

MITCHELL ON BYRNES

Congressional Record

Extension of remarks of Hon. Arthur W. Mitchell of Illinois in the house of representatives, Friday, June 13, 1941. Letters in reference to appointment to supreme court.

Mr. Mitchell. Mr. Speaker, under leave to extend my remarks in the Record, I include the following letters:

Congress of the United States.
House of Representatives,
Washington, D. C., May 17, 1941.
President Franklin D. Roosevelt,
The White House, Washington, D. C.

My Dear Mr. President: No man in the United States has watched with deeper and keener interest your effort to appoint worthy men to office than I. I wired you from Chicago in 1937 highly commending your judgment and courage in the appointment of Associate Justice Black to the Supreme Court bench. I am writing now to endorse Senator James F. Byrnes to fill the vacancy on the Supreme Court bench created by the resignation of Justice McReynolds.

I have known Senator Byrnes for about 30 years. Aside from being an outstanding lawyer and statesman, he is a genuine New Dealer, courageous and honest, and just to his fellow man. It has been a source of great satisfaction and pleasure to me to confer with Senator Byrnes since I have been a Member of Congress, and to note his broad vision and his determination to be fair and just to all Americans, regardless of race or color. It is my opinion that Senator Byrnes is without doubt one of the best, if not the best qualified men in this country to fill the vacancy.

I sincerely hope that in your wise judgment you will see fit to appoint him to this place on the bench where I am sure he will continue to render that superlative degree of service which has characterized his career over a long period of years. Thousands of well-thinking people of my race join me in making this request of you. We hope and pray that you can grant it. I am,

Very sincerely and gratefully yours,

Arthur W. Mitchell.

The White House,
Washington, May 20, 1941.
Hon. Orthur W. Mitchell,
House of Representatives,
Washington, D. C.

My Dear Mr. Mitchell: Please accept the President's thanks for your letter of May 17. He wants you to know that he appreciates your courtesy in telling him of your high estimate of the qualifications of Hon. James F. Byrnes for appointment as Associate Justice of the Supreme Court of the United States.

Very sincerely yours,
M. H. McIntyre,
Secretary to the President.

United States Senate,
Committee on Appropriations,
May 20, 1941.
Hon. Arthur W. Mitchell,
House of Representatives,
Washington, D. C.

Dear Mitchell: I am in receipt of copy of a letter addressed to the President by you with reference to the appointment to the Supreme Court. Because this expression of your good will is unsolicited, it is all the more appreciated.

When Justice McReynolds retired, some of my colleagues suggested that since it was a southern vacancy I should be appointed. Naturally I was flattered. Like most lawyers, I regard the appointment to the Court as a great honor. As time has passed, I confess that I have doubt as to whether, after my active life in the legislative branch of the Government, I would be happy in the work of the Court. Consequently I have urged my friends not to do anything to influence my appointment. However, there will be time enough for me to decide whether I want to leave the Senate, should the President see fit to offer me the appointment. I am telling you now of my views, only because I appreciate your friendly interest.

You have proved a sound and constructive leader. I am not indulging in flattery when I say you have rendered to your people a service excelled only by your preceptor, Booker T. Washington, whose life undoubtedly has influenced your thinking. When you express the opinion that I have been fair and just to all people, regardless of race, it is a real compliment.

With best wishes, I am,
Sincerely yours,
James F. Byrnes.
—From The State.

Kansas City Call
Kansas City, Mo.

DO NOT PREJUDGE BYRNES

The selection of James F. Byrnes, formerly senator for South Carolina, to be associate justice of the supreme court, is a fact accomplished. We repeat now the advice to Negroes which we offered when Hugo Black of Alabama was elevated to that high judicial post. We said then and we repeat now that a judge, entrusted with interpretation of law, is in an entirely different public service from a legislator elected to pass laws to please the majority. These functions being different, the same man could and in the case of Justice Black did react differently.

Abstract right has mighty few devotees. Most of us are practical about it. We consider ourselves entirely praise-worthy when we make progress toward the ideal. Applying that rule to Byrnes, an official elected by a rabidly anti-Negro state, he was a marked improvement over Tillman and Blease. No less a personage than William Penn, the Quaker who was patron of the colonists who settled Pennsylvania, once enforced the edicts of the English king against groups of religionists. His explanation was that he a man of peace, would carry out his orders humanely, and for that reason his official acts were not unbecoming to his faith.

Having had Negroes a factor in his state's politics, the new justice will not have to be made acquainted with their part in American life. His anti-Negro stand at home, where the status of black citizens was a moot question,

amounts to a confession that they have some rights. Otherwise there would be no point in being against them. As justice it is possible that he will declare that they have those rights. If he does that, we will never hold it against him that race prejudice played a part in South Carolina politics. Justice Black has made the case for Justice Brynes—until Justice Brynes turns in evidence against himself.

JUN 26 1941

Columbia, S. C. State
June 18, 1941

A CHOICE TO BE MADE.

The United States supreme court has declared that a state must offer educational opportunities to Negroes equal to those it offers to white students.

The United States supreme court has reversed the conviction of four Florida Negroes in a Florida court, because it found the accused men had been intimidated or otherwise illegally influenced by white officers.

In a decision earlier than either of these, the United States supreme court had set aside the verdicts in the famous Scottsboro cases.

The United States supreme court has decided that public carriers may not give inferior accommodations to Negroes who pay the same fares as other passengers receiving superior services.

The United States supreme court has decided that political primaries for the nominating of congressional candidates are under federal jurisdiction when those primaries are an essential part of the process of election.

A federal court of appeals has decided that Negro school teachers must be paid the same as white teachers of corresponding qualifications and with equivalent duties.

These decisions are individually interesting, and individually important. But their true importance is more easily realized when they are considered as evidences of a trend. The United States is moving closer to democracy. The United States is developing keener concern for the status of minorities.

This is a powerful trend. It cannot be stopped by one state, or by several states. It can be stopped only by a majority of the people of the United States. But a majority of the people seem to be accelerating, not impeding, the trend. Lawmakers and judges respond to trends. They do not, as a rule, develop them.

So South Carolina is face to face with a situation. South Carolina must make a choice.

Adjustments in race relations are inevitable.

The choice South Carolina has is this: Will the white people of South Carolina guide inevitable changes for the common good of this state; or will we decline to take leadership offered to us, and let changes come unguided by us?

We cannot block a national trend that is moving toward fervently avowed national purposes.

Think about this, please. Think calmly. Think of the present and of the future. There can be no going back to the past.

The situation is not critical. There is no compelling reason why it should become critical. But it will become critical if we, the white people of South Carolina, refuse, or neglect, to be reasonably co-operative.

Common and general progress can be gained from the situation. Common and general happiness can be promoted. Both races can go forward, each at its own speed. But this will not happen as smoothly as it should unless South Carolina leaders of both races work together for attainable, sensible goals.

Miami, Fla. Herald
June 14, 1941

Association Files Protest Of Byrnes Appointment

NEW YORK, June 13. (UP)—The National Association for the Advancement of Colored People has informed President Roosevelt that its members are "shocked" by the appointment of Senator James F. Byrnes of South Carolina to the Supreme court.

"As we have repeatedly pointed out to you, Mr. Byrnes' record has been one of uncompromising opposition to any and every form of justice and equal treatment to the American negro and to certain other minorities as well," a telegram signed by Walter White, secretary of the NAACP, said.

Christian Index
Jackson, Tennessee

THE NEW CHIEF JUSTICE

THE naming of Associate Justice Harlan F. Stone, to be Chief Justice of the Supreme Court is about the best appointment that could be expected in the light of such former appointments by President Roosevelt. The appointment of a liberal Chief Justcie was inevitable.

In naming Mr. Stone, the President selected a man who was a liberal before the New Deal type of liberal came into power. A former dean of the Columbia University Law School and an appointee of Mr. Coolidge to the court, Mr. Stone's liberalism is a sounder sort of liberalism than that of many other associate justices of the court.

JUN 19 1941

The Stone appointment means that a man has been selected because of judicial experience rather than political experience and temperament. It will add prestige to the court at a time when it needs prestige. Mr. Stone will not be a personal New Deal Chief Justice.

The appointment of Attorney Robert H. Jackson, long one of the New Deal pillars, to the court was expected and the appointment of Senator James F. Byrnes, South Carolina democrat, was also expected.

JUN 19 1941

It is to be hoped that these appointments will contribute something to National Unity.

New York Age
New York, N. Y.

ASSOCIATE JUSTICE BYRNES

ANY HOPE that President Roosevelt would profit by his experience in the naming of Mr. Justice Hugo Black to the Supreme Court were doomed to disappointment when it was announced last week that Senator James F. Byrnes of South Carolina had been nominated as an associate justice. It will be remembered that Mr. Black was proved to have held membership in the Ku Klux Klan after he had been nominated but the President denied knowing this when the selection was made.

JUN 28 1941

Although Senator Byrnes may not have held membership in the Klan, his record for intolerance and bigotry are well known, as witness the following excerpts from a speech made by the then Senator Byrnes in favor of the Jim Crow policies of the Army—

". . If the Negro does not care to live in this land without political and social equality, then he can depart for any other country he wishes . . . There are in this country 90,000,000 white people determined not to extend political and social equality to the 10,000,000 Negroes."

The argument that Mr. Byrnes succeeds Justice McReynolds, another Southerner, has been advanced to show that the new justice is now worse than his predecessor. But the President was supposed to be a liberal and had denounced the reactionary element of the Supreme Court as represented by Justice McReynolds. The President had been informed in advance of Mr. Byrnes anti-Negro convictions, so he cannot in this instance, as he did in the case of Justice Black, plead ignorance.

JUN 28 1941

14-1941

Chicago Defender
Chicago, Illinois

JAMES F. BYRNES

Unless President Roosevelt was able to exact a definite promise from Senator James F. Byrnes of South Carolina that he would not carry to the United States Supreme Court his anti-Negro attitude which has colored his views in the past, we see no ground on which to consider the administration's choice as bolstering the liberality of the high court.

Of course Byrnes would promise anything to obtain a lifetime job that few men have an opportunity to get. But Mr. Roosevelt shouldn't be so naive as to believe that a leopard can change its spots. Unlike Mr. Justice Hugo Black who had an honorary membership in the Ku Klux Klan, Senator Byrnes' record both as a lawyer in his home state and as a member of the United States Senate is one marked by a determination to deny the Negro the rights and privileges of American citizenship.

The liberal trend which the U. S. Supreme Court has pursued in the last five years must be attributed directly to the high calibre of President Roosevelt's appointees. Their attitude has been responsible for a number of decisions handed down by the Court in favor of the Negro people. Although the Court did not go the whole length in many of the cases in which essential constitutional rights of the black man were involved, it has opened the way for more substantial and definite gains for us.

If, however, President Roosevelt continues to appoint men of Senator Byrnes' stripe it will not be long before the liberalism of the high court will be halted. The gains we have made would under a reactionary tribunal be nullified by a complete reversal of opinion. That is the reason why Negroes must examine with care the social philosophy and political record of every man selected for a seat on the Supreme Court of the United States.

Our objections to unfriendly candidates for the high post may eventually force a change of attitude among all those who wish to be elevated to the bench. Such a method will yield a healthy respect for the opinion of Negro leaders.

Palmetto Leader
Columbia, S. C.

Carroll Predicts Senator Byrnes Would Make a Great Justice

NOTES

1. U. S. Senator James Francis Byrnes, recently appointed Associate Justice of the U. S. Supreme Court.

2. His own stand on the anti-lynching bill. ---- ----

3. Why he voted against the appropriation for Howard University.

4. Believes in higher education for Negroes, he says.

5. Secured private contribution of $10,000 for college at Orangeburg, S. C.

6. Was born a Catholic in Charleston, S. C. but is now a Protestant.

Columbia, S. C., June 29—(ANS)—After the publication of the elevation of Senator James F. Byrnes to the Supreme Court as Associate Justice, Seymour Carroll of Columbia, S. C., Southern Field Representative of the American Humane Education Society and a very warm friend and supporter of the Senator, wired him his congratulations. Commenting on the appointment by President Roosevelt, Carroll predicted last night that Senator Byrnes would make a great justice as he has made a leader in the United States Senate.

Some months ago several of the national Negro papers denounced Senator Byrnes because of his southern birth and because of his record in the United States Senate as being unfavorable to certain legislations regarding the Negro race. He had opposed many years ago, while a member of the House in Congress, an appropriation for Howard University. He disapproved the anti-lynching bill and other bills that were pending in Congress which brought resentment from the Negro press all over the country.

Mr. Carroll has always been a Byrnes supporter and admirer. In June 1940 while attending the Republican National Convention in Philadelphia he was elected as the official member of the notification committee from South Carolina for the vice-presidential candidate, Senator Charles LL. McNary of Salem, Oregon. On the 30th of June he wrote Senator Byrnes that if he saw fit to accept the nomination of the Democratic National Convention in Chicago that he would go to Salem, Oregon for the McNary notification but would enter the campaign in favor of South Carolina's most illustrious son.

Senator Byrnes wrote Carroll one or two very frank letters of his attitude toward the Negro. Later Mr. Carroll attempted to make these letters public to the press, but the Senator asked that these letters not be made public. Carroll wrote him that he wanted to make them public because he had a feeling that he would be a member of the Supreme Court. He wrote a number of letters to some of the most outstanding Negroes in the country most of whom were publishers, editors and college presidents about the very fine type of man Senator Byrnes is and defending his attitude towards the Negro. His files also contain letters from President Roosevelt. Stephen Early, secretary to President Roosevelt wrote Mr. Carroll and said among other things, "You may be assured that the President will appreciate your interest in writing to him on behalf of Honorable James F. Byrnes, whom you recommend for appointment as an Associate Justice of the Supreme Court of the United States."

When Bernard M. Bruch wanted to make a donation of $10,000 to some worthy Negro Educational Institution more than a year ago it was Senator Byrnes who directed his attentions to the State A. and M. College of South Carolina. In one of Senator Byrnes letters to Seymour Carroll he wrote the following:

"I am not a candidate for appointment to the Supreme Court and even when friends in the Senate have expressed a desire to communicate with the President requesting my appointment, I have made personal appeals to them that they should not do so. Because of my attitude in the matter, I have refrained as far as possible from even discussng the matter with friends.

"About a month ago I was advised by a newspaper correspondent that Walter White had written the President urging that I should not be appointed because I had opposed the Anti-Lynching Bill on the ground that it was unconstitutional and unwise,—unwise because we have made great headway in our fight against mob murder, and a threat of this kind against a Governor and judicial officers might cause an unfavorable reaction.

"Inasmuch as I am not a candidate, I am not interested in, and could give no encouragement to, any campaign to bring about my appointment. However, I am interested in the effort to misrepresent my attitude toward the Negroes of the Nation and of South Carolina. When I was a member of the House I did make a point of order against an appropriation for Howard University. There was no law authorizing such an appropriation. I made a point of order against every appropriation which was not authorized by law. I recall arguing that if in the absence of a law authorizing an appropriation to an educational institution, money was appropriated to one school, there was no excuse for not appropriating monney for the conduct of every other school, whether its pupils were white or colored. I insisted that if it were to be done in a proper and regular way, a law should be enacted authorizing an appropriation to Howard University, and since that I have never opposed the appropriation for Howard University. I really wish that that school might be even more effective in furnishing Negro doctors and dentists to care for the needs of the Negro in the South. As a matter of fact, instead of opposing the education of the egro, last year when Mr. B. M. Baruch was considering making gifts to some educational institutions, he asked my advice and I suggested that he make a gift to the Negro college at Orangeburg, which he did. Again, he asked my advice and I suggested another school in the state of South Carolina. He told me he would follow this suggestion and I am satisfied he must have done so. I have never before mentioned these gifts were made at my suggestion.

I have advised every friend in South Carolina who has communicated with me that I did not want to be placed in the position of seeking a judicial appointment and I preferred that they should do nothing to bring about my appointment. I made a similar request when members of the Legislature desired to introduce a Resolution endorsing me. Therefore, I would like to ask that you do not organize the clubs to which you refer. In making this request, I know you will understand that it is not through lack of appreciation of the interest which prompts you to do this. I do appreciate it."

Mr. Carroll had made plans to organize "James F. Byrnes" clubs in the largest cities in South Carolina. Clubs which were to be known as the "James F. Byrnes" clubs. Former South Carolinians in Washington and New York held meetings and were ready to perfect these organizations and were only stopped when Carroll advised them that these clubs were temporary.

Charleston, S. C. News & Courier
June 20, 1941

No Great Danger Yet

Mr. Roosevelt's court in Washington has handed down a series of decisions relating to the treatment of negroes and having an especial bearing on the South. Some of these decisions are just and sound; others of them will not be enforced because they are unenforceable as long as the Southern white people shall stand together.

As The News and Courier has heretofore said, the decision about admitting negroes to vote in white primaries is not dangerous, for the plain and simple reason that primaries are not necessary of life in the South. The white South did not "redeem" their section with primary elections.

So far, the supreme court is "keeping of the grass" as to the main question of race relations in the South. It is not interfering with separation in the industries or in residence. It is not trying to force the cotton mill companies to employ negroes nor to rent houses to negroes in mill villages. On the other hand, government in its "housing projects" in cities is in practice adhering to residential segregation. It is building separate groups of houses for white and colored people.

Nor is government interfering with "civil rights." It is tacitly admitting, so far, the rights of hotels and restaurants to operate exclusively for one or the other race.

Were government to undertake to enforce laws abhorrent to white people, the white people would resist—and no army would be sent to the South to enforce them.

The majority of the Northern people are not in sympathy with the Northern negro "uplifters" and their radical supporters.

The white Southerners will submit to some of the court decisions and "cooperate", to employ the word of The (Columbia) State, but there is a point at which they will stop and fight.

In the end, they will cooperate in paying white and colored teachers of equal qualifications equal wages, and that will be right. Southern people do not pay negro carpenters for a day's work less than they pay white carpenters because they are negroes.

Common honesty requires the payment of whites and blacks dollar for dollar for equal service—and still if one prefer to employ a white to a colored crew, that too is one's right.

Pittsburgh Courier
Pittsburgh, Pa.

SATURDAY, JUNE 21, 1941

CONGRATULATIONS NOT IN ORDER

We commend the President's choice of Mr. Stone as Chief Justice and Attorney General Jackson as Associate Justice of the United States Supreme Court.

But congratulations from Negroes to Mr. Byrnes of South Carolina on his appointment as Associate Justice will be few, if any.

Mr. Byrnes is far more objectionable to Negroes than is either Judge Parker of North Carolina or Mr. Black of Alabama.

In the first place Mr. Byrnes is the most undistinguished lawyer ever appointed a Supreme Court Justice.

Admitted to the South Carolina Bar in 1903, we have seen no record that he practiced law until he was elected solicitor for the Second South Carolina Judicial Circuit in 1908, and in that post his outstanding distinction was prosecuting several murder cases.

Two years later, in 1910, he became a Poll-Tax Congressman in Washington where he remained for 20 years on the payroll of the House of Representatives and for 10 years on that of the Senate, thanks to his State's one-party dictatorship based on Negro disfranchisement.

While there may be some differences of opinion regarding the legal qualifications of Mr. Byrnes, there is not the slightest doubt about his views on the Negro in American democracy.

In biting, searing words edged with bitter hatred he has opposed Negro suffrage and spoken consistently against Federal anti-lynching and the rights of Negroes as citizens.

On more than one occasion he has gone out of his way to unnecessarily fan the flames of race prejudice.

His speeches and recorded votes are to be found in the Congressional Record for all to read, and there is nothing

Christian Recorder
Philadelphia, Pa.

THE SUPREME COURT'S RULING

MAY 8 1941

Fair minded American citizens will hail with satisfaction the recent United States Supreme Court ruling in the Representative Arthur W. Mitchell case which makes it obligatory upon the southern states to permit Negroes to ride first class in Pullman cars while traveling from one state to another. The ruling overides the action of the Interstate Commerce Commission, and the Northern Illinois Federal District Court. Quite naturally it was opposed by most of the southern states who talk democracy but do not want to act it wherever and whenever the Negro is concerned. The court was fair, wise, and just. A timely blow was struck at un-Americanism when the fate of democratic nations is uncertain.

MAY 8 1941

All that the Negro wants is to be treated as an American citizen. The same Supreme Court will not allow the segregation states now to disregard the ruling by some fictive legal device or unwritten code. A few months ago when certain ministers were returning from the meeting of the Bishops and Connectional Council at New Orleans a conductor took up their first-class tickets and ordered them from the Pullman car. Our experience has been that Negroes make good Pullman passengers. When they are served in the diner they do not desire to be last, nor to eat with the help. Not that they disdain being with them, but have paid for and are riding first-class. We congratulate Congressman Mitchell in his persistent fight, and the Supreme Court, bulwark of American liberties.

MAY 8 1941

The Daily Worker
New York, N. Y.

'Re-Packing' the Supreme Court

• With his latest appointments to the Supreme Court, President Roosevelt gives a public demonstration before the entire country that he places a tomb-stone on the long-since-scuttled New Deal period.

JUN 13 1941

The appointment of Senator Byrnes, notorious foe of everything even faintly progressive in American life, demonstrates that the "national unity" of all imperialist forces is being extended into the Supreme Court also.

Attorney General Jackson prepared the ground for his appointment by his attacks on Labor, against the foreign-born, and by the persecution of militant trade unionists. By these imitations of the Palmer Raid days he proved his fitness to sit with the poll-tax reactionary, Senator Byrnes of South Carolina. He sealed his appointment this week by denouncing workers' demands for 75 cents an hour as "insurrection," a statement American labor will find it hard to forget.

Senator Byrnes was a bitter enemy of relief, the Wagner Act, old-age pensions, social security, and the WPA.

JUN 13 1941

Toward the Negro people, Senator Byrnes has displayed, along with the whole Democratic machine of the South, a vindictive and ruthless attitude of hostility. He has fought the anti-lynch Bill; he has helped disfranchise millions of Negroes through support of the poll-tax system. By appointing him, President Roosevelt indicates what he thinks of the struggle for Negro rights.

In the Byrnes appointment, President Roosevelt gives new evidence that he has long since closed ranks with the people whom the American people saw then as their worst enemies. President Roosevelt is "re-packing" the Court with people who fought the American peopde. It adds further testimony to his "national unity" with the Knoxes, Stimsons, and Willkies, the known men of Wall Street.

New Masses
New York, N. Y.

Louis Dembitz Brandeis

JUSTICE BRANDEIS was one of the "nine old men." During the first and second Roosevelt administrations, the Supreme Court became synonymous with the ugliest reaction, with the stultification of the democratic process. Yet Justice Brandeis, with his colleague Benjamin Cardozo, was never really identified with the nine old men. For, in the whole controversy between the people and the Court, Brandeis maintained his liberalism, upholding an anti-monopoly outlook in support of New Deal reforms. Louis D. Brandeis was a more than usually consistent man: he had fought monopoly from his youth and he continued to fight what he called the "curse of bigness." His career epitomized the trend of liberal thought during the thirty years and more that he participated so creditably in public life.

OCT 14 1941

But his outlook also illustrated the weakness of a liberalism based on philosophic idealism and motivated by hatred of "size." True, in Massachusetts politics and later on the bench, Justice Brandeis fought without respite against the incursions of monopoly and against the corruption it brought with it. He was an able crusader for minimum wage laws. He gave voice to consumers' needs, to the desperate struggle for survival of small business overwhelmed by huge and ruthless corporations. But Justice Brandeis, like his elder contemporary Senator LaFollette, Sr., had almost no understanding of labor's primary role in this struggle, and still less perception that monopoly was more than the "curse of bigness," not to be "cured" by denunciation or by plans to recapture the good old days.

OCT 14 1941

It is sad that an indelible part of his record must be his refusal to grant a stay of execution to Sacco and Vanzetti. His excuse at the time was that his daughter Susan had been interested in attempts to stop the murder of the two working class victims, and his legal ethics prevented him from interfering lest a stay granted by him be interpreted as stemming from "undue pressure." Perhaps this terrible blot is lightened somewhat by subsequent actions in the Scottsboro and Herndon cases, by his firm stand against Munich, by his unwavering opposition to fascism. His death marks the passing of a great liberal of another generation.

14-1941

Roanoke, Va., World News
July 8, 1941

Poll Tax and the Court

The United States Supreme Court has been asked by the Southern Electoral Reform League and Lee Pressman, general counsel of the C. I. O., in a case on appeal from Tennessee, to declare the poll tax as prerequisite condition of voting illegal and unconstitutional on the ground that:

1. The right to vote for members of Congress is a right arising from the Constitution.

2. Rights and privileges arising from the Constitution are not subject to State taxation in any form.

3. The Fourteenth Amendment, forbidding any State to make any law abridging the privileges and immunities of citizens, renders invalid and unconstitutional the imposition of a poll tax as a prerequisite to voting.

In State campaigns for repeal or modification of poll tax provisions, it has been argued that the poll tax requirement for voting is contrary to fundamental principles of democracy, in that it deprives hundreds of thousands of citizens of any voice in government, that it leads to corrupt political practices, and perpetuates the existence of political machines. Low labor standards and lax administration of labor laws have been attributed in poll tax States to the fact that the poll tax restricts the electorate and so reduces "the popular support upon which progress in labor legislation depends."

Supporters of the poll tax have argued that it achieves a desirable purpose in keeping Negroes from the polls, that it provides revenue for the support of public schools, that it results in a superior electorate and gives cleaner political conditions than are found in many of the non-poll tax States.

Four States have abandoned the poll tax as a prerequisite of voting in recent years, reducing the number of poll tax States from twelve to eight.

Globe and
Independent
Nashville, Tenn.

PRESIDENT ROOSEVELT DISAPPOINTS HOPES OF NEGRO CITIZENS

The Byrnes Nomination Casts Gloom Over the Negro World—A Record of Intolerance and Bigotry

By EMMETT J. SCOTT

WASHINGTON, D. C.—The nomination of the Honorable "Jimmie" Byrnes of South Carolina was confirmed as an Associate Justice of the Supreme Court of the United States in eleven minutes after it reached the U. S. Senate on June 12.

The delicate finesse employed in placing this reactionary Southerner on the bench was equalled only by the adroit handling of the nomination of Mr. Hugo Black when his name reached the Senate August 12, 1937. He was confirmed 5 days thereafter.

The machinery for Senatorial-courtesy action was all greased, apparently in advance. Sen. Carter Glass of Virginia was instantly on his feet to propose confirmation, and so, under Senatorial tradition, when a Senator is named for a new position, it went through like greased lightning.

A BIT TOO SMART

It was all very smart. History, maybe, will record that it was a bit too smart, for it indicated there was no disposition to have the fitness of this nominee discussed in an open session of the Senate.

In the case of that other Senatorial nominee, Mr. Black, Mr. Roosevelt was not advised beforehand, it is said, of Mr. Black's former Ku Klux Klan affiliations until an enterprising newspaper reporter broke the news by publishing Mr. Black's application for membership in the malodorous organization. Then followed the full revelation.

Mr. Byrnes' record for intolerance and bigotry and hatred of certain American citizens however was, and is, well known. Lack of knowledge of that record cannot be averred or pretended.

As a militant organization for full citizenship rights for all classes of our population said in a telegram to the President: "Mr. Byrnes' record has been one of uncompromising opposition to any and every form of justice to and equal treatment of the American Negro and to certain minorities as well."

That record was formally presented to the White House months ago—as soon as rumors began to circulate that Mr. Byrnes was being considered for this exalted post. It is a record no man sworn to support and defend the Constitution of the United States should have.

Congressionally speaking this latest nominee for a seat on the bench of the Supreme Court of the United States was ever to the fore in scourging "immigrants" who came here seeking respite from the oppressions of the Old World, despite the fact that members of his own family had come to America seeking opportunities not to be found in the land of their birth.

Also, following the pattern of demagogic Southern Democratic politicians, Mr. Byrnes elected to damn Negroes on every occasion possible so as to commend himself to the favor of his collective, bucolic constituency.

A REACTIONARY POLITICIAN

We have referred to him as a reactionary politician: He fought favorable Child-Labor legislation, Suffrage for Women, the Wage-Hour Bill, appropriations for Negro education, the Anti-Lynching Bill, and practically every progressive measure designed to make this a land worth living in.

His special venom and passionate oratory were reserved for Negroes. Always alert, he opposed Federal appropriations for Howard University, by making his little "points of order" whenever that appropriation came before Congress, until he was disarmed by a bill put through a Republican Congress by Republicans and approved by a Republican President, Calvin Coolidge, authorizing statutory legislation for such appropriations.

He spoke for and voted for Jim-Crow policies in recent Army legislation and sought to negative every provision that would "prevent discrimination against persons on account of race and color." These samples will suffice to reveal his prejudiced, jaundiced mind:

They (immigrants) have no capacity for assimilation with our white people. They must have some society, and we fear they would turn to the Negro race, mingle with them, and so aggravate our Race Problem as to make it hopeless.

If the Negro does not care to live in this land without political and social equality, then he can depart for any other country he wishes . . . There are in this country 90,000,000 white people determined not to extend political and social equality to the 10,000,000 Negroes.

As a Supreme Court Justice, Mr. Byrnes will be compelled to take this oath:

I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully discharge all the duties incumbent on me as Judge, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States.

As President of the United States, Mr. Roosevelt, on January 20, 1941, for a third time took this oath:

I do solemnly swear that I will faithfully execute the office of President of the United States and will to the best of my ability, **PRESERVE, PROTECT**, and **DEFEND** the Constitution of the United States.

Is it a fair question: Will the nomination of Mr. Byrnes by Mr. Roosevelt enable the President and the Congress to "preserve, protect and defend" the Constitution of the United States?

OPPOSED TO NEGRO CITIZENSHIP

Every fibre of Mr. Byrnes' frail body rejects and resents the Federal Amendments bestowing and guaranteeing citizenship to the Negro. His whole political life has decried the legislation which made these Amendments living parts of the law of the land. How will Justice Byrnes react, what mental reservations will disturb him in the light of his recorded words of

the past, when Negro litigants appear seeking justice at the bar of the High Tribunal—and they plan to continue to appear and petition as long as the studied injustices of Mr. Byrnes' Democratic section continue to be practiced!

He is opposed to Negro citizenship, and yet, on the bench, he will meet these clear-cut Constitutional mandates:

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of Life, Liberty, or Property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

A moral readjustment, so complete as to constitute a miracle is in prospect, it would seem, if Mr. Byrnes, the Associate Justice, is to triumph over the 30-year reactionary record of Mr. Byrnes, the Southern Politician and Stirrer of Hate and Venom against Negro citizens of the Nation.

President Roosevelt has been peculiarly insensible and unresponsive to direct appeals sent him by Negro organizations and leadership. Never more so, during the past 8 years, than in this matter of selecting the South Carolinian to follow and succeed that other reactionary, where Negro rights were concerned—Justice McReynolds. Better things were expected.

There is gloom in the Negro world. Those who so lustily and so eagerly looked forward last November with fervent hope and expectation and their votes, now, must see the harm they have done.

Black Dispatch
Oklahoma City, Okla

WHAT OTHER PAPERS SAY.—

Jim Crow Collapses

As was anticipated, the Supreme Court went back to the Fourteenth Amendment when on April 28, it handed down an interpretation of the so-called "Jim Crow" law. The case arose when Arthur Mitchell, a Negro, and a member of the House from Illinois, was compelled to leave his place in a Pullman car, during an interstate journey, and betake himself to a second-class coach reserved for Negroes. The Court's decision does not, apparently, condemn segregation, but it does state emphatically that discrimination against any citizen because of his race is "an invasion of a fundamental right" guaranteed against the States by the Fourteenth Amendment. The importance of this case becomes clear from the fact that ten Southern States had submitted a brief asking the Supreme Court not to review it.

This ruling which, as Mr. Justice Frankfurter wrote, long before his elevation to the Court, touches "a sensitive area of social policy," will not be received with immediate and unfeigned pleasure by all whom it affects. Yet we have long been convinced that those Southern leaders, neither few in number nor without influence, who have held that it was time to make this area less sensitive by large infusions of common sense and common charity, were wholly in the right.

Negro-baiting never represented the best spirit of either the Old or the New South. Its leading representatives realize the truth of Booker Washington's saying that the white man cannot hold the Negro in the ditch without staying there himself.

It must not be concluded, however, that the South was or is, alone in its denial of justice to the Negro. No part of the country, unfortunately, is free from the Negro-baiter, and sometimes we wonder whether the type found in the cities of the North is not the most offensive of all. Nor have we as yet had any satisfactory explanation for the discrimination used against Negroes in some industries which are engaged on Government contracts. Such discrimination is bad enough, even when confined to one locality. That it should be tolerated by the overnment, would indicate ignorance of the Fourteenth Amendment, or disregard for its provisions.

If the Negro is still a "problem," the fault is that of the white race. He can demand justice at our hands, and more than this, a charity that will in some degree make amends for the wrongs we have put upon his race.—America, May 10, 1941.

New York Age
New York, N. Y.

SUPREME COURT AS A WAY TO SOLVE THE RACE PROBLEM

FOR A NUMBER OF YEARS, the National Association for the Advancement of Colored People, and similar organizations, have been trying to break down racial discrimination in this country through the passage of additional legislation, such as a federal anti-lynching law. But because of a large and powerful bloc of Southerners in the Halls of Congress, such legislation hasn't gotten very far.

The success of the efforts by Congressman Arthur W. Mitchell in his fight against jim-crowism on the railroads, through the sweeping decision of the United States Supreme Court unanimously endorsing Mr. Mitchell's contention that the carriers must provide equal accommodations in those states where jim crow laws exist, has caused many persons to conclude that we have been fighting discrimination by the wrong method. Instead of getting additional legislation, we should fight to have the laws in some states which abridge the contstiutional rights of Negroes declared void, or made so expensive to administer that they would be voluntarily dropped.

Most of the laws aimed against the Negro by Southern States have never been tested before the U. S. Supreme Court, and with the court organized as it is at the present time, these laws stand a better chance of getting a fair hearing than at any other time in our recent history. Considerable pressure was brought on the court by the political organizations of the ten Southern states involved in the Mitchell case, yet the members of the court proved that they would not be swayed by political consideration.

As Congressman Mitchell stated, this decision of the Supreme Court is the most important rendered in our generation, and one that points the way toward the proper settling of many problems of discrimination, since the federal constitution and the Bill of Rights make no distinction in its guarantees because of race or color.

Both Congressman Mitchell and the Supreme Court are to be congratulated on the service they have done the Negro race through the decision in the railroad jim-crow case.

Chicago Defender
Chicago, Illinois

A FRIEND OF THE PEOPLE

The death of Louis Dembitz Brandeis, retired Associate Justice of the Supreme Court has removed from the turbulent American scene one of the greatest liberals in the history of that high tribunal.

Though his name was often linked in dissents with that of the late Justice Oliver Wendell Holmes, Justice Brandeis concurred, however, in all the major decisions handed down by the Supreme Court in favor of the Negro's constitutional rights. He supported the majority opinion in the Scottsboro, the Angelo Herndon and the Gaines cases.

He was impatient with those who sought the authority of the Court in order to sustain and promote their base traditions of sectional and racial prejudices. He was ever cutting in reminding southern lawyers of the flaws in their arguments against equality for the Negro. He was opposed to monopolies and to great concentrations of political or economic power. He saw the wealth of the nation in the development and full use of all the talents of all its individuals. He had faith in little men because he had seen little men grow, and in countless instances had helped them grow.

Democracy as he saw it was for the toiling multitude of striving persons whose hopes and ambitions rested often on higher motives and ideals than those of the wealthy and the powerful.

14-1941

Pittsburgh Courier
Pittsburgh, Pa.

A GREAT FRIEND RETIRES

With the retirement of Chief Justice Charles Evans Hughes, America's most distinguished public man and one of the Negro's greatest friends, it will call a halt to a busy and useful career.

Since the days when as crusading Governor of New York he first commanded national attention, he has been consistently on the side of right and justice for all men, rich and poor, black and white, and he has the enviable distinction today of being one of the few men in public life against whom no finger of scorn or accusation can be pointed.

His interpretation of the Constitution has been always characterized by flexibility and liberality, and he has striven consistently to keep that historic document abreast of the times.

In the decisions he has rendered dealing with the rights of Negroes as citizens, he has been always forceful and often scathing, and has never failed to take the very highest ground against powerful forces of bigotry and reaction.

We have always been able to count on Charles Evans Hughes.

Now, burdened with years, and rich in wisdom and honors, he leaves the highest judicial position within the gift of the nation enjoying the respect and admiration and affection of all Americans.

We shall watch with anxiety the selection of his successor, for the United States Supreme Court is truly the Negro's great bulwark, and there are few eligible men who even approach the calibre of Charles Evans Hughes.

Argus
St. Louis, Missouri

JUSTICE HUGHES' RETIREMENT

In the retirement of Chief Justice Charles Evans Hughes of the United States Supreme Court, that tribunal loses what we would call an able jurist. We characterize Mr. Hughes as an able jurist because he, as one of the old-timers on the bench, developed quite a liberal attitude during the last ten years. He was able to grasp the situation when President Roosevelt threatened the retirement of the older members of the bench and since that time his decisions have been in that liberal vein which one would expect to find in the younger men.

Justice Hughes has to his credit the writing of the decision in the Gaines case which was unanimously concurred in by his associates. To his credit also is the writing of the opinion in the Mitchell Jim Crow case which was concurred in by a majority opinion of the court. Judging from his later opinions it looks as though his ripe old age enabled him to see the moving finger of the times in which we are living, and best of all was the fact that he was able to write his opinions in keeping with the times.

Black Dispatch
Oklahoma City, Okla.

Supreme Court Upholds Congressional Right To Rule Primaries Elections

May Help Poor Whites and Negroes Who Are Disfranchised in Southern States

Upheld By Three-fourth Decision

WASHINGTON.—(ANP)—The right of congress to interfere in the conduct of primary elections was upheld by a 4-3 supreme court decision rendered Monday by Justice Harlan F. Stone.

This decision, it is generally agreed, will do away with higher than $10 a month, that many of the impediments by which large groups of Negroes and poor whites are disfranchised in the South. Selection of Democratic candidates in the primaries in Southern states amounts to their election, and the Supreme Court decision holds that the civil rights act of 1870 clearly makes it unlawful to exclude Negroes from the primaries.

The court's ruling upheld the indictment of five New Orleans election commissioners who were accused of altering and falsely counting votes cast in the Democratic primary for the second Louisiana congressional district last September. The defendants were charged with depriving citizens of rights guaranteed to them by the constitution in violation of sections 19 and 20 of the criminal code

Justice Stone's opinion, which over-ruled the Newberry case, said: "The primary in Louisiana is an integral part of the procedure for the popular choice of congressman. The right of qualified voters to vote at the congressional primary in Louisiana and to have their ballots counted is thus the rght to participate in that choice."

News
Birmingham, Ala.

State Poll Tax Laws As Vote Prerequisite Challenged In Court

Case From Tennessee Goes Before Supreme Tribunal In Washington

BY CARROLL KILPATRICK
Special Washington Correspondent, The Birmingham News

WASHINGTON — Another challenge to the right of a state to impose a tax as a prerequisite to voting was presented to the Supreme Court Thursday in a petition challenging Tennessee's poll tax law.

The brief, filed in behalf of Henry Pirtle, of Tracy City, Tenn., by Crampton Harris, of Birmingham, and Lee Pressman, of Washington, asked for a review by the high court of the recent decision by the Sixth Circuit Court of Appeals upholding the Tennessee law.

Argument in the case will be carried over to the October term.

The case is based on the contention that the right to vote in an election to fill a federal office must not be interfered with by the states. Pirtle was prevented from voting in a 1939 special election called to fill a vacancy in the House of Representatives because he had not paid his poll tax.

"The sole question presented," the brief points out," is whether the constitution and laws of the state of Tennessee, which make payment of a poll tax a condition precedent to the right to vote in an election to fill a vacancy in the House of Representatives, contravene the provisions, express or implied, of the constitution of the United States."

Arguing the poll tax is unconstitutional, the brief declares the right to vote for members of Congress "is a right arising from and fundamentally based" on Article 1, Section 2, of the constitution and that such rights "are not subject to state taxation in any form."

Admitting the right to vote for state officers is derived from the states, the attorneys argue that the right to vote for federal officers comes from the United States and is an "essential element of sovereignty."

"The franchise is conferred on the individual," the brief argues, "not for his benefit but for the benefit of the federal government and for the purpose of maintaining the established constitutional system.

"If the states have the power to tax this franchise they have the power to destroy representative government. If they have the power to tax they have the power to say what the tax shall be. They can, therefore, levy a poll tax so high that rich men only will be able to vote.

"It is no answer to say that no state has carried the power to such an extreme. It is the existence of the power which conflicts with the constitution and not merely the possible abuse of that power.

"The elective franchise is not an article of commerce. It cannot be sold by the individual and should never be sold by the state to the individual. To allow the state to tax is to allow the state to sell it."

Striking at the political bossism, the brief argues that "if the payment of a tax is a qualification we confront one peculiar situation that a corrupt candidate can confer qualification upon thousands of citizens by paying their poll tax."

Charleston, S. C. News & Courier
June 6, 1941

Would Repudiate the South?

Now comes suggestion that President Roosevelt may appoint Secretary Hull and Attorney General Jackson to the supreme court's vacancies, and Senator Byrnes is of the "also mentions". The appointment of Senator Byrnes would be a reward for political services to the administration. After all that has been said, the president's failure to appoint him would be set down as caused by negro influence in the Democratic party, Mr. Byrnes having been, in the discussion of the anti-Southern, or anti-lynching bill, a strenuous and effective upholder of the white South's attitude. While Mr. Byrnes can hardly be said to have a commanding reputation as learned counsel, that qualification is not, in the Roosevelt administration, considered indispensable to supreme court service. Mr. Hull has been too long a politician to be a great lawyer. In 1938 Byrnes's saying, Mr. Byrnes said that "the negroes are now in control of the Democratic party". Refusal by President Roosevelt to appoint him to the court would be construed as confirmation by President Roosevelt of Senator

Journal and Guide
Norfolk, Virginia

Judge Parker For The Supreme Court

THE resignation of Chief Justice Charles Evans Hughes leaves another vacancy on the United States Supreme Court. The President has not yet named a successor to former Justice McReynolds, although it has been expected that he would name Senator James F. Byrnes, of South Carolina to fill this vacancy.

JUN 7 1941

Judge John J. Parker, of the Fourth Circuit bench naturally fits into any discussion of appointees to the Supreme Court.

President Hoover named Judge Parker but opposition from organized labor and the National Association for the Advancement of Colored People brought about his rejection by the Senate. Mr. Parker, who is a native of North Carolina, had sinned against labor in one of his court decisions, and had cast doubt over his availability for the high court in campaign speeches when he was a candidate for governor of North Carolina. Running for governor in a solidly Democratic state on the Republican ticket, Mr. Parker had done the politically expedient thing of giving his sanction to the disfranchisement laws.

As a judge there has been nothing in Mr. Parker's record to sustain his political speeches made long before he was appointed to the bench.

JUN 7 1941

Judge Parker is undoubtedly one of the ablest jurists in the United States today. His presence on the Supreme Court bench would strengthen that tribunal. The President could do far worse than name an experienced man to the high court to succeed Mr. Chief Justice Hughes. The Journal and Guide does not believe that he could find a better man than Judge Parker, of the Circuit Court.

Globe and Independent
Nashville, Tenn.

HIGH COURT ASKED TO REVIEW "TIPS" PAY FOR RED CAPS

Wage And Hour Law Administrator Says Public Gifts Are Not Wages

WASHINGTON, D. C.—The Supreme Court has been asked to review the question of whether tips are wages under the Fair Labor Standards Act in a memorandum filed by the Solicitor General in behalf of General Philip B. Fleming, Administrator of the Wage and Hour Division, Department of Labor.

The Administrator, as a friend of the court, has intervened in the suit brought by red caps employed at the Union Terminal Company, Dallas, Texas, against the terminal company for restitution of wages under the Wage and Hour Law. The Circuit Court of Appeals for the Fifth District last month found that the tips received by red caps constituted wages paid to them, reversing the judgment of the court below which had found in favor of the red caps and awarded them $77,753.98 in back pay and liquidted damages.

The memorandum was submitted in support of a petition for a writ of certiorari which seeks to bring this case before the Supreme Court as a test case and thus judicially settle a question which affects he methods of compensation of the more than 6,000 red caps employed in railroad terminals throughout the country. Over fifteen suits by red caps against railroads on this question involving several million dollars are now pending.

Indirectly affected are all workers who receive all or part of their remuneration in the form of tips. A recent government survey estimates thein number throughout the country to be approximately 888,500. Most of these are waiters, who are not covered by the Wage and Hour Law. Many of them are under state minimum wage orders.

The red caps maintain that tips cannot be considered as part of wages paid, but that the statutory minimum wage of 30 cents an hour should be paid by the terminals without regard to tips. The terminals on the other hand takes the position that tips can be considered part of the 30 cents minimum wage. Under a so-called accounting and guarantee plan the Dallas Terminal had required the red caps to report the amount of tips received and the number of hours worked and at the end of the week had paid the difference if tips did not equal the minimum wage.

This accounting and guarantee plan was put into operation by the Dallas Terminal Company at the time the Wage and Hour Law became effective in October, 1938 Similar plans were used by numerous terminal companies to pay their red caps. These plans have since been abandoned in favor of a ten cents a parcel plan utilizing tickets.

The memorandum points out that from the beginning the plan was a source of dissatisfaction and that it violates the Wage and Hour Law. It cites the interest of Congress in the question of tips as wages as shown by a resolution passed by the Senate authorizing an investigation by the Administrator of this question.

The memorandum states that "in view of the long-continued administrative concern with the problem the evident interest of Congress in its solution, and the large number of pending suits which involve the same issue as that here presented, the importance of a determinative decision of this case by this Court seems manifest.

It contends that the duty imposed by the Wage and Hour Law upon the Terminal Company to pay wages to the red caps s not discharged by permitting the red caps to retain the tips they receive from passengers. Such tips are not the property of the terminal company but belong to the red caps, it is argued. It points out that the red caps themselves had never consented to this accounting and guarantee plan of compensation, nor had they by continuting to work under this plan waived their original right to ownership of tips; and furthermore, the passenger who pays the tip intends such a tip to be the property of the red cap.

The Solicitor General contends that the action of the terminal company in allowing the red caps to keep their property did not constitute the payment of wages within the meaning of the Wage and Hour Law.

The accounting and guarantee system "could not prevent the tips, when given, from becoming the property of the red caps in the first instance, for the passengers who gave the tips were not made aware of the agreement and consequently still intended their gratuities to belong to the red caps. Accordingly, when given to the red caps, the tip money became their property, even though they were under a contractual obligation to account to the terminal company for the amount received.

"Since the tips became the property of the red caps when given, the accounting and guarantee system amounted at most to an agreement whereby the red caps turned over some of their own property to their employer and received htat property back from the employer as 'wages.' This is not, we submit, a compliance with the Act. Act requires the actual payment of the minimum wage, not an agreement that the employer will pay the minimum wage provided that the employee gives to the employer, not only his services, but some of his property as well."

The memorandum includes for the court's consideration a report prepared last November by the Administrator for Senator Elbert D. Thomas, chairman of the Senate Committee on Education and Labor, in which he received the problem of wages and other conditions of employment of red caps at various terminals.

Knoxville, Tenn. News Sentinel
June 13, 1941

BYRNES APPOINTMENT OPPOSED BY NEGROES

By United Press

NEW YORK, June 13—The National Association for the Advancement of Colored People has protested to President Roosevelt his appointment of Sen. James F. Byrnes of South Carolina to the Supreme Court. In a telegram to the President, Walter White, secretary of NAACP, said that persons who believe the court "should be kept free fro mracial and other bigotry are shocked" at the Byrnes appointment.

"As we have repeatedly pointed out to you," the telegram said, "Mr. Byrnes' record has been one of uncompromising opposition to any and every form of justice and equal treatment to the American Negro and to certain other minorities as well. It is a source of deep regret to us that you have seen fit to ignore the protests which have been made to you."

Greenville, S. C. Piedmont
June 18, 1941

Negro Solon Praises Byrnes As Being Fair To All Races

Mitchell Wrote F. D. May 17 Urging Carolinian's Elevation To Bench

Congressman Arthur W. Mitchell of Illinois, colored, on May 17 wrote President Roosevelt endorsing Senator James F. Byrnes for appointment to the supreme court. He sent a copy of the letter to the senator.

Following, from the Congressional Record, are copies of the Mitchell letter and of replies from the president's secretary and Senator Byrnes:

Congress of the United States,
House of Representatives,
Washington, D. C., May 17, 1941.

President Franklin D. Roosevelt,
The White House, Washington, D. C.

My Dear Mr. President: No man in the United States has watched with deeper and keener interest your effort to appoint worthy men to office than I.

I wired you from Chicago in 1937 highly commending your judgment and courage in the appointment of Associate Justice Black to the Supreme Court bench. I am writing now to endorse Senator James F. Byrnes to fill the vacancy on the Supreme Court bench created by the resignation of Justice McReynolds.

I have known Senator Byrnes for about 30 years. Aside from being an outstanding lawyer and statesman, he is a genuine New Dealer, courageous and honest, and just to his fellow man.

It has been a source of great satisfaction and pleasure to me to confer with Senator Byrnes since I have been a member of Congress, and to note his broad vision and his determination to be fair and just to all Americans, regardless of race or color. It is my opinion that Senator Byrnes is without doubt one of the best, if not the best, qualified men in this country to fill the vacancy.

I sincerely hope that in your wise judgment you will see fit to appoint him to this place on the bench where I am sure he will continue to render that superlative degree of service which has characterized his career over a long period of years.. Thousands of well-thinking people of my race join me in making this request of you. We hope and pray that you can grant it. I am.

Very sincerely and greatfully yours,
Arthur W. Mitchell.

McINTYRE'S REPLY

The White House,
Washington, May 20, 1941.

Hon. Arthur W. Mitchell,
House of Representatives.
Washington, D. C.

My Dear Mr. Mitchell: Please accept the President's thanks for your letter of May 17. He wants you to know that he appreciates your courtesy in telling him of your high estimate of the qualifications of Hon. James F. Byrnes for appointment as Associate Justice of the Supreme Court of the United States.

Very sincerely yours,
M. H. McIntyre,
Secretary to the President.

14-1941

Chicago Tribune
Chicago, Illinois

UPHOLDS POWER OF CONGRESS TO RULE PRIMARIES

High Court Acts in Louisiana Case.

BY CHESLY MANLY.
[Chicago Tribune Press Service.]

Washington, D. C., May 26.—In a 4 to 3 decision of far reaching implications, the Supreme court today upheld the power of congress to regulate congressional primary elections.

As construed by the majority opinion, delivered by Justice Harlan F. Stone, the civil rights act of 1870 clearly makes it unlawful to exclude Negroes from the Democratic congressional primaries in southern states.

MAY 27 1941

Justice department attorneys said the opinion left some doubt as to the power of congress to abolish state poll taxes by statute, but that it unquestionably would sweep away many of the impediments by which large classes of citizens are disfranchised in the so-called solid south.

Hughes Takes No Part.

Justices Owen J. Roberts, Stanley F. Reed and Felix Frankfurter concurred in the majority opinion. Chief Justice Charles Evans Hughes took no part in the case. Justices Hugo L. Black and Frank Murphy concurred in a dissenting opinion by Justice William O. Douglas, which affirmed the power of congress to regulate primary elections but objected to the procedure invoked in the case decided today.

The majority opinion overruled a federal District court and sustained the indictment of five New Orleans election cxommissioners, who were accused of altering and falsely counting votes cast in the Democratic primary for the Second Louisiana congressional district last Sept. 10.

The defendants, Patrick B. Classic, John A. Morris, Bernard W. Yeager Jr., William Schumacher, and J. J. Feddermann, were charged with depriving citizens of rights guaranteed to them by the constitution, in violation of sections 19 and 20 of the criminal code.

Reverses Newberry Ruling.

These sections of the post civil war statute make it a crime, punishable by imprisonment of not more than 10 years and a fine of not more than $5,000, to deprive any inhabitant of any state of rights, privileges, and immunities guaranteed by the constitution and laws of the United States.

The indictment charges that the defendants infringed the right of voters to have their ballots counted as cast and the right of candidates to have votes in favor of their nomination counted as cast.

The District court sustained a demurrer on the strength of the Supreme court's 5 to 4 decision in the Newberry case in 1921, holding the federal corrupt practices act unconstitutional as applied to senatorial primary elections.

Essence of Decision.

Justice Stone's opinion, which specifically over-ruled the Newberry case, said:

"In fact, as alleged in the indictment, the practical operation of the primary in Louisiana is and has been since the primary election was established in 1900 to secure the election of the Democratic nominee for the second congressional district of Louisiana.

"Interference with the right to vote in the congressional primary in the second district for the choice of Democratic candidate for congress is thus as a matter of law and in fact an interference with the effective choice of the voters at the only stage of the election procedure when their choice is of signifiance, since it is at the only stage when such interference could have any practical effect on the ultimate result, the choice of the congressman to represent the district.

Called Integral in Choice.

MAY 27 1941

"The primary in Louisiana is an integral part of the procedure for the popular choice of congressman. The right of qualified voters to vote at the congressional primary in Louisiana and to have their ballots counted is thus the right to participate in that choice."

Obviously, the opinion states, the constitutional right of the electors to choose members of congress includes "the right of qualified voters within a state to cast their ballots and have them counted at congressional elections."

"Unless the constitutional protection of the integrity of elections extends to primary elections," the opinion adds, "congress is left powerless to effect the constitutional purpose, and the popular choice of representatives is stripped of its constitutional protection save only as congress, by taking over the control of state elections, may exclude from them the influence of the state primaries.

"Such an expedient would end that state autonomy with respect to elections which the constitution contemplated that congress should be free to leave undisturbed, subject only to such minimum regulation as it should find necessary to insure the freedom and integrity of the choice."

MAY 27 1941

Justice Douglas Dissent.

The dissenting opinion by Justice Douglas conceded that "free and honest elections are the very foundation of our republican form of government." It affirmed the power of congress to deal with congressional primaries, notwithstanding the court's 20 year old decision in the Newberry case. But it objected to the extension of the civil rights act to primary elections.

To do so, the Douglas opinion held, is to "enter perilous territory" because there is "no common law defense against the United States."

"If a person is to be convicted of a crime the offense must be clearly and plainly embraced within the statute," the Douglas opinion added. "It is one thing to allow wide and generous scope to the express and implied powers of congress; it is distinctly another to read into the vague and general language of an act of congress specifications of crimes. . . . Civil liberties are too dear to permit conviction for crimes which are only implied and which can be spelled out only by adding inference to inference."

Journal and Guide
Norfolk, Virginia

Decision Affects Ballot

MAY 31 1941

Murder Conviction Is Also Reversed By Supreme Court

WASHINGTON, D. C. — In a decision directly relating to Negro suffrage in Southern states, the United States Supreme Court ruled Monday that state primaries and nominating conventions meeting to select nominees for Congress, were subject to federal supervision and regulation the same as general elections.

The constitutional right of Congress to legislate against corruption in primary elections caused no disagreement, but the court split 4 to 3 on the question as to whether Congress actually had done so in the 1870 statute, which makes it a crime to deprive a citizen of his constitutional rights.

ENFORCEMENT LAW

The Act of 1870 was enforcement legislation, and provided penalties for violating the Fourteenth and Fifteenth Amendments. Jurisdiction was given to the federal courts to maintain the equality of the races before the law.

MAY 31 1941

The underlying doctrine of the acts was that the amendments guaranteed Negroes against invasion of their rights by the acts of individuals as well as by explicit legislation of the states.

Upon the basis of "states' rights," the South has continued to maintain an unyielding opposition to all forms of federal anti-lynching legislation, and its right to determine the conditions upon which the Negro may vote.

NO NEGRO CASE INVOLVED

The decision of the Supreme Court Monday did not involve any case of the Negro vote, although the split was over the act that was directly concerned with the right of the Negro to vote.

However officials of the Justice Department expressed belief that Monday's decision indicated the court would "rule that an interference with the rights of Negroes to vote in a primary to determine candidates for federal office violated the federal statute."

They further expressed belief the court would hold the law of 1870 applicable to any political party regulations which bar Negro voters from primaries or which require tests of party regularity.

MAY 31 1941

LAW STRIKES RIGHTS

In a 17-page opinion, Justice Stone wrote:

"The right to participate through the primary in the choice of representatives in Congress—a right clearly secured by the Congress—a right clearly secured by the Constitution — is within the words and purposes of the 1870 law in the same manner and to the same extent as the right to vote at the general election."

JUSTICE BLACK DISSENTS

Justic Black joined Justices Murphy and Douglas in dissenting. Justice Douglas in the minority opinion contended that direct primaries were unknown when the Act of 1870 was passed; that Congress 'through the years' had refused to enter the field of primaries and that "this court is legislative when it takes the initiative in extending (the 1870 law) to primaries."

Chief Justice Hughes did not vote, presumably because, while practicing law in 1921, he represented Senator Truman H. Newberry of Michigan in a case where the court held that Congress could not regulate primary campaign expenditures. One seat on the bench is vacant.

MAY 31 1941

REVERSES MURDER CONVICTION

In another decision, the Supreme Court also reversed the murder conviction of Joe Vernon of Birmingham, Ala. Vernon's appeal to the court was based upon the charge that he had been subjected to third degree methods in an attempt to extort a confession, and that Negroes were excluded from his jury.

Commercial Appeal
Memphis, Tennessee

HIGH COURT UPHOLDS FEDERAL REGULATION OF STATE PRIMARIES

Nominating Conventions Subject To Same Government Laws As General Elections

JUSTICES VOTE 4 TO 3

Decision May Cover Right Of Negroes To Vote

CITE OLD 1870 STATUTE

'Crime To Deprive Citizen Of Constitutional 'Rights' Recalled By Stone In Applying Act To Party Rules

By WILLIAM R. SPEAR
Associated Press Staff Writer

WASHINGTON, May 26. — The Supreme Court ruled Monday that state primaries and nominating conventions were subject to Federal regulation the same as general elections.

There was no disagreement over the Constitutional right of Congress to legislate against corruption in primaries but the Court split, 4 to 3, on the question whether Congress actually had done so in a broad 1870 statute making it a crime to deprive a citizen of his Constitutional rights.

New Orleans Case

The majority opinion, by Justice Stone, held that law covered the case of five New Orleans election officials accused of altering 97 ballots in last September's Democratic Congressional primary in favor of Representative T. Hale Boggs. The minority contended otherwise.

The specific purpose of the 1870 act was to carry out the 14th Amendment giving the negroes the right to vote. While no question of negro suffrage was involved in the case decided Monday, Justice Department officials expressed belief that the decision indicated the court would "rule that any interference with the rights of negroes to vote in a primary to determine candidates for Federal office violated the Federal statute."

They expressed belief the Court would hold the 1870 law applicable to any political party regulations which bar negro voters from primaries or which require tests of party regularity.

Counting Equal To Voting

"Conspiracy to prevent the official count of a citizen's ballot," Justice Stone wrote in a 17-page opinion, "is equally a conspiracy to injure and oppress the citizen when the ballots are cast in a primary election prerequisite to the choice of party candidates for a Congressional election. . . .

"The right to participate through the primary in the choice of representatives in Congress—a right clearly secured by the Constitution—is within the words and purposes of (the 1870 law) in the same manner and to the same extent as the right to vote at the general election."

Justice Douglas in the minority opinion contended that direct primaries were unknown when the act in question was passed, that Congress "through the years" and specifically in connection with the Hatch Act in 1939 had refused to enter the field of primaries and that "this court is legislating when it takes the initative in extending (the 1870 law) to primaries."

Hughes Silent

Justices Black and Murphy joined Justice Douglas in the dissent Chief Justice Hughes did not participate, presumably because, while practicing law in 1921, he represented Senator Truman H. Newberry of Michigan in a case where the court held that Congress could not regulate primary campaign expenditures. One seat on the bench is vacant.

Justices Black, Douglas and Murphy also were dissenters in two other cases involving Constitutional points as the court disposed of about half of the score of cases remaining on its docket before its Summer recess after next Monday.

Some pungent comment by Justice Frankfurter on the rights and duties of administrative officers brightened an opinion upholding a 1939 order by Vice President Wallace as Secretary of Agriculture reducing the maximum fees for commission agents at the Kansas City stockyards between 1933 and 1937.

Criticism Upheld

The commission men argued that Mr. Wallace should disqualify himself as biased because of a letter he wrote to the New York Times protesting an earlier decision which upset his order.

"In publicly criticizing this court's opinion," Justice Frankfurter observed, "the secretary merely indulged in a practice familiar in the long history of Anglo-American litigation whereby unsuccessful litigants and lawyers give vent to their disappointment in tavern or press. Cabinet officers charged by Congress with adjudicatory functions are not assumed to be flabby creatures any more than judges are."

Justice Frankfurther also held that Mr. Wallace should not have been questioned regarding the manner of reaching his findings.

ASCAP Loses

In Florida and Nebraska cases involving the American Society of Composers, Authors and Publishers (ASCAP), the Court upheld the right of states to regulate "combinations in restraint of trade." The two states have enacted laws permitting the public performance of copyright music whenever the original purchase price is paid but the Court did not rule on the legality of the laws as a whole. The opinion, by Justice Black, was confined to the restraint phase.

The Court also reversed thee murder conviction of Joe Vernon, Birmingham, Ala., negro who charged that he was subjected to a "third degree" and that negroes were excluded from his jury, and denied a petition by Illinois to increase its diversion of water from the Great Lakes-St. Lawrence system. Such diversion had been fought by Wisconsin, Minnesota, Ohio, Pennsylvania, Michigan and New York.

Washington Post
Washington, D. C.

U. S. Control Of Primaries Ruled Legal

By Hedley Donovan
Post Staff Writer

The Supreme Court, in a 4-3 decision of far-reaching implications, yesterday held that the Federal Government's authority to regulate elections includes State conventions or primaries for nomination to national office.

The decision, it was believed here, may broaden the electorate in several Southern States where colored voters have been denied participation in primary elections on the ground that political parties are private associations entitled to limit their own membership.

Justice Stone, in the majority opinion, noted that in a number of States nomination is tantamount to election, and that interference with the right to vote in a primary is in fact "an interference with the effective choice of the vaters at the only stage of the election procedure where their choice is of significance."

The court went on, however, to rule that the right of participation in a primary is protected by Federal law, whether the primary "invariably, sometimes or never" determines the result of the election.

Weapon Against Corruption

Besides its possible effect in increasing participation in primaries, the decision was seen as opening the way for application of Federal corrupt practices laws to primaries as well as national elections.

The decision also was interpreted as removing doubt as to the validity of the second Hatch Act, which forbids various forms of political activity on the part of State employes paid wholly or in part by Federal funds.

Grew out of Indictment

The decision grew out of an indictment charging five New Orleans election commissioners with changing votes cast in a primary to select a Democratic nominee for the House of Representatives last September. Dismissal of the indictment was ordered by the Eastern Louisiana Federal District Court on the ground that Congress had no authority to regulate primaries.

The Supreme Court majority held that an 1870 statute aking it a crime to deprive a citizen of his Constitutional rights covered interference with a citizen's participation in a primary.

Douglas, Murphy, Black Dissent

Justice Douglas in the minority opinion did not question the constitutional right of Congress to regulate primaries but held that Congress had not clearly exercised that right in the 1870 statute. He was joined in the dissenting opinion by Justices Murphy and Black.

Chief Justice Hughes did not participate in consideration of the case. As an attorney in private practice, he represented Senator Truman H. Newberry, of Michigan, before the Supreme Court in a 1921 case involving the Federal Government's power to regulate primaries.

The Newberry decision has generally been regarded as barring the Federal Government from regulation of primaries, though yesterday's majority opinion contended that the issue had not been previously judged by the Court. In the Newberry case, Justice Stone, wrote, four Justices held that the Federal Government could regulate primaries, four held it could not and the ninth argued that the Court did not pass on the question.

In other decisions yesterday the Court:

Upheld a 1939 order by Vice President Wallace, then Secretary of Agriculture, reducing the maximum fees for commission agents at the Kansas City stockyards between 1933 and 1937.

Reversed the conviction of Joe Vernon, Birmingham Negro sentenced to die for murder, already saved twice from execution by eleventh-hour action of the Supreme Court. Vernon's counsel contended the man had been "beaten to the point where he was crazy" in order to obtain purported confessions.

Ruled against Richard J. Reynolds, treasurer of the Democratic National Committee, in a tax controversy with the Federal Government involving $33,878.

Hampton, S. C., Guardian
June 11, 1941

Doctor Olin Sawyer, Senator from Georgetown, and a veteran of the Legislature, spoke like a man in the Senate when he refused to be alarmed by a decision of the United States Supreme Court on the race question.

Forms of law have their uses, but there are considerations deeper and more vital than court decisions. The Southern people, both white and colored, have made substantial progress in working out their problems. These problems must be solved by the people of the South and by them, only. True it may be that Northern societies of Negroes made political deals with Northern politicians calling themselves Democrats and they may be trying again to collect for their political support of politicians running in the name of Democracy, but the white men of the South will not be coerced by statute or court decision; they will either solve this problem peaceably and for the benefit of all, or they may feel driven to some extremes which might be regrettable in the extreme.

Certain of our politicians may talk about the sanctity of law and the respect due to a court; but no one claims infallibility for lawmakers or courts. In matters of racial concern and racial attitude the attitude of the South is not to be shaped or controlled by any group of men, whatever may be their position, or whatever may be the sanctity which covers them.

England's experience with Ireland is a recent case in point. All the law in the world and all the courts can't compel men to smother a deep-seated, ingrained racial feeling. Our politicians will find that the independent thinker on his farm will not yield one jot or tittle under pressure. Our Negroes might well pray that all the Northern friends who are stirring up the race question would drown themselves in the sea. If this agitation continues it will embitter the relations between Whites and Negroes and set the Negroes back a quarter of a century.

14-1941
Monroe, N. C. Journal
April 15, 1941

NEGRO LEADERS BEGIN CAMPAIGN AGAINST BYRNES

They Would Do To Him What They Did For Judge Parker In the Senate

DEPENDS ON ROOSEVELT

By H. E. C. (Red Buck) BRYANT

Washington, April 14.—There is a deep-seated conviction here that Senator James F. Byrnes, of South Carolina, will be appointed to the Supreme court to succeed Associate Justice James C. McReynolds, and that he will be a good man for the position. His nomination, it is believed, is to go to the Senate just as soon as the President thinks his services as a real administration spokesman in Congress can be spared.

That the naming of Senator Byrnes may precipitate a lively conflict in new-made political groups no one who reads the leading Negro papers of the North, East and West can doubt. Already the Pittsburgh (Pa.) Courier, the most powerful of the race sheets, has opened fire in a very vigorous protest against the selection of the South Carolina statesman who, it asserts, "has a lengthy anti-Negro record."

White Opens Up

Walter White, director of the activities of the Association for the Advancement of Colored People, has taken a protest to the White House. But, if Mr. Byrnes' name is sent to the Senate it will receive favorable action, as that body does not quibble over the confirmation of a nomination of one of its members. It goes without saying that certain Senators who now try to curry favor with Negro leaders would like to prevent the appointment.

A speech made in Congress in 1919 in the House of Representatives when Mr. Byrnes was a member there, is cited to show that he is unfriendly.

White reported that Mr. Byrnes had stated, on the floor of the House, August 25th of that year: "If, as a result of his experience in the World War, he does not care to live in this land without political and social equality, then he can depart for any country he wishes, and his departure will be facilitated by the white people of this country."

White also stated that Mr. Byrnes was hositle to the Jews. He declared that any person "holding the views of Mr. Byrnes is an enemy of American democracy, and it is unthinkable that he should be elevated to a high place on the highest court in the land."

The foregoing quotations are from the Washington Afro - American, which comes close to the Pittsburgh Courier in importance.

To Prevent Inter-Marriage

The Courier claims credit for "exposing" the Byrnes record. It went to back numbers of the Congressional Record for its thunder against the object of its attack. Some of its citations are:

Sixty - third Congress, third session, January 11, 1915: Voted "yea" on bill to prohibit intermarriage of whites and Negroes in the District of Columbia (Congressional Record, Vol. 52, part 2, pp. 1366, 1367, 1368).

February 23, 1915: Voted "nay" on motion to concur in Senate amendment to Sundry Civil Appropriation Bill appropriating $101,000 for Howard University.

Sixty-sixth Congress, first session, August 25, 1919: Speaking on race riots and activities of the Industrial Workers of the World, he blamed incendiary utterances of "would - be leaders of the race," circulated thru colored newspapers and magazines for race antagonism as evidenced by the Chicago and Washington riots. He said:

"If the two races are to live together in this country it may as well be understood that the war has in no way changed the attitude of the white man toward the social and political equality of the Negro."

On Same Footing

Sixty-seventh Congress, second session, December 19, 1921: "Condemned lynching as murder, but opposed enactment of the Dyer anti-lynching bill. He said: "You cannot cure lawlessness by indulging in it yourselves. This you do when you pass a bill so clearly in violation of the Constitution as it has been construed to this date by the United States Supreme Court.

"This legislation furnishes an excellent exhibition of the spirit of the mob. To mete out to the rapist the punishment they think he deserves the mob is willing to violate the law. To mete out to the lynchers of the rapist the punishment you think he deserves you are willing to violate the Constitution. Their act is in heat, yours in calm deliberation."

January 26, 1922: Voted "nay" on passage of Dyer anti-lynching bill.

May 10, 1922: Voted "yea" on motion to recommit House Joint Resolution authorizing a loan of $5,000,000 to Liberia. Voted "nay" on passage of resolution.

Sixty-eighth Congress, first session, January 29, 1924: Made points of order against items for Howard University in Interior Department appropriation bill on the ground that there was no authority in law for appropriating Federal funds for that institution.

Objected to Howard University

March 13, 1924: He spoke against a motion to recede from the action of the House sustaining his points of order and to concur in the Senate amendment to the Interior Department appropriation bill appropriating $207,500 for Howard University. He charged that the appropriation to the university was made in order to secure Negro votes.

Columbia S. C. State
April 24, 1941

NEGROES VS. BYRNES?

Chester Reporter

"Red Buck" Bryant, veteran Washington correspondent, sees opposition to the appointment of Senator James F. Byrnes of South Carolina, to the vacant supreme court justiceship beginning to take shape among the Northern Negroes, who successfully thwarted the ambitions of Judge Parker of North Carolina a few years ago when he was named for the highest court in the land, and think they can pull the same trick again. If Mr. Roosevelt has promised the appointment to Senator Byrnes, he ought to see to it that the South Carolina senator is confirmed, as the White House owes a great deal to Mr. Byrnes. And Mrs. Roosevelt has only to put out the word to quell any uprising among the blacks. If Walter White attempts a blitzkreig on South Carolina's junior senator it ought to end in utter and ignominious failure.

Chicago Tribune
Chicago, Illinois

UPHOLDS NEGRO IN HIS RIGHT TO PULLMAN SEAT

APR 29 1941

U.S. Supreme Court Rules for Congressman.

APR 29 1941

Washington, D. C., April 28 (AP).—The Supreme court held today that Negroes traveling from one state to another are entitled to railroad accommodations equal to those furnished white persons.

Chief Justice Hughes delivered the decision on a test case brought by Representative Arthur W. Mitchell [D., Ill.], the only Negro member of congress. No dissent was announced.

Mitchell contended that he had been forcibly ejected from a Pullman car in Arkansas, while traveling from Chicago to Hot Springs in 1937, and had been compelled to complete the journey "in a Jim Crow car with second class accommodations.

"This," Hughes asserted, "was manifestly a discrimination against him in the course of his interstate journey and admittedly that discrimination was based solely upon the fact that he was a Negro.

Ruled Illegal Discrimination.

"The question whether this was a discrimination forbidden by the interstate commerce act is not a question of segregation but one of equality of treatment. The denial to appellant [Mitchell] of equality of accommodations because of his race would be an invasion of a fundamental individual right which is guaranteed against state action by the 14th amendment, and in view of the nature of the right and of our constitutional policy it cannot be maintained that the discrimination as it is alleged was not essentially unjust.

APR 29 1941

The chief justice said that because segregation was not involved the court had no occasion to consider the questions discussed by the attorneys general of 10 states in a brief filed with the Supreme court.

The brief contended that the litigation did not involve constitutionality of the Arkansas separate coach law as applied to interstate commerce.

Calls Discrimination Unlawful.

Saying that the interstate commerce commission had recognized in the past that "colored persons who buy first class tickets must be furnished with accommodations equal in comforts and conveniences to those afforded to first class white passengers," Hughes added:

"We find no sound reason for the failure to apply this principle by holding the discrimination from which the appellant [Mitchell] suffered to be unlawful and by forbidding it in the future."

Hughes said that because there was "but a single incident was not a justification of the treatment" of Mitchell.

The court assumed, he said, that the chief reason for the interstate commerce commission's action in dismissing Mitchell's petition was the "comparatively little colored traffic."

"But the comparative volume of traffic," Hughes added, "cannot justify the denial of a fundamental right of equality of treatment, a right specifically safeguarded by the provisions of the interstate commerce act.

Individual Rights at Issue.

"While the supply of particular facilities may be conditioned upon there being a reasonable demand therefor, if facilities are provided, substantial equality of treatment of persons traveling under like conditions cannot be refused.

"It is the individual who is entitled to the equal protection of the laws—not merely a group of individuals, or a body of persons according to their numbers.

APR 29 1941

"On the facts here presented, there is no room, as the government properly says, for administrative or expert judgment with respect to practical difficulties. It is enough that the discrimination shown was palably unjust and forbidden by the act."

Mitchell's petition for equal rights was dismissed by the interstate commerce commission and by the northern Illinois federal District court. The justice department sided with Mitchell and against the ICC.

Counsel for the Chicago, Rock Island and Pacific Railway company, on whose train Mitchell rode, said the practice was to place Negroes having Pullman tickets in a compartment and charging them only seat fare. The compartment had been sold out on this particular day, it was explained.

The demand by Negroes for Pullman facilities was described by the railway attorney as "virtually nonexistent."

New York Times
New York, N. Y.

COURT BACKS RIGHTS OF NEGRO ON TRAINS

APR 29 1941

Equal Accommodations Must Be Furnished, Decision in Mitchell Case Holds

APR 29 1941

Special to THE NEW YORK TIMES.

WASHINGTON, April 28—Negroes are entitled to Pullman accommodations and other first-class services equal to those which white passengers receive on railroad trains, the Supreme Court unanimously decided today, ruling in favor of Representative Arthur W. Mitchell, Democrat, of Chicago, the only Negro member of Congress.

Chief Justice Hughes, announcing the decision, said that the removal of Mr. Mitchell from a Pullman coach to a second-class Negro car as he neared the Arkansas border in April, 1937, was a "discrimination both palpably unjust" and forbidden by the Interstate Commerce Act. The Negro car, Mr. Mitchell alleged, was "filthy and foul smelling."

APR 29 1941

"Colored persons who buy first-class tickets must be furnished with accommodations equal in comforts

and conveniences to those afforded to first-class white passengers," Justice Hughes stated.

The decision was regarded with deep interest in governmental and railroad circles here and throughout the nation. In Chicago, Mr. Mitchell termed the decision a "step in the destruction of Mr. Jim Crow himself" and the first decisive step toward equal rights for Negroes "in my lifetime."

Not "Question of Segregation"

Justice Hughes declared that the issue was "not a question of segregation but one of equality of treatment" and thus it was unnecessary to consider the recent protest of ten Southern Attorneys General that their State segregation laws were valid.

APR 29 1941

The future course of the railroads on the question was left to adjustment with the Interstate Commerce Commission. What the carriers will do was a question here. In some Southern States, it is said, so few Negroes ask for first-class accommodations that a separate Pullman would be a constant economic loss. Dining cars and observation cars may conceivably have to be supplied for Negroes, for Justice Hughes remarked that the commission had found that "inequality persists" with regard to these.

Justice Hughes specifically disagreed with the Interstate Commerce Commission in the Mitchell case that because there was "comparatively little colored traffic," the lack of equal accommodations for Negroes was not unjust or undue. "Numbers must not be taken into account," the Chief Justice said, in returning the case to the Commission for further proceedings in conformity with his opinion.

"It is the individual, who is entitled to the equal protection of the laws—not merely a group of individuals, or a body of persons according to their numbers," the Chief Justice added.

APR 29 1941

He supported the Department of Justice, which opposed the I. C. C. in the case, and reversed the Northern Illinois District Court, which sustained the commission. Mr. Mitchell has a damage suit pending in Illinois against the Pullman Company and the railroads affected.

Representative Mitchell, remarked Justice Hughes, "is an American citizen free to travel and he is entitled to go by this particular route whenever he chooses to take it" and to have facilities without discrimination.

APR 29 1941

The "undisputed facts," however, Mr. Hughes went on, show that having paid a first-class fare from Chicago to Hot Springs, Ark., and having offered to pay for a Pullman seat from Memphis to Hot Springs, "he was compelled in accordance with custom" to leave the Pullman, go into the second-class car and be denied "standard conveniences and privileges" afforded to first-class passengers.

"This," Justice Hughes stated, "was manifestly a discrimination against him in the course of his interstate journey and admittedly that discrimination was based solely upon the fact that he was a Negro. The question whether this was a discrimination forbidden by the Interstate Commerce Act is not a question of segregation but one of equality of treatment.

Cites Fourteenth Amendment

"The denial to appellant of equality of accommodations because of his race would be an invasion of a fundamental individual right which is guaranteed against State action by the Fourteenth Amendment and in view of the nature of the right and of our constitutional policy it cannot be maintained that the discrimination as it was alleged was not essentially unjust. In that aspect it could not be deemed to lie outside purview of the sweeping prohibitions of the Interstate Commerce Act.

APR 29 1941

"We have repeatedly said that it is apparent from the legislative history of the act that not only was the evil of discrimination the principal thing aimed at, but that there was no basis for the contention that Congress intended to exempt any discriminatory action or practice of interstate carriers affecting interstate commerce which it had authority to reach."

Justice Hughes swept away contention that only a "single incident" had occurred and the fact that the railroad in July, 1937, three months after the Mitchell incident, replaced the "old combination coach" with a modern, all-steel, air-conditioned car divided for Negroes and whites and well and equally equipped.

Black Dispatch
Oklahoma City, Okla

U. S. Court Holds Inferior Accommodations for Negro Must Stop On U. S. Railroads

Court Holds That Right of Individual Must Be Protected in Historic Decision

14th Amendment Violated in Ouster

By ALBERT ANDERSON

WASHINGTON.—(ANP)—Inferior railroad accommodations to Negroes are illegal and must stop.

This significant decision was handed down Monday by the United States supreme court when it held that Rep. Arthur W. Mitchell of Chicago had been unjustly discriminated against when he was ejected from a Pullman while traveling from Chicago to Hot Springs, Ark., in 1937.

Chief Justice Charles Evans Hughes, who delivered the opinion from which there was no dissent, set aside the ruling against Mr. Mitchell rendered by the Interstate Commerce commission and ignored a brief filed by seven attorneys-general of southern states who feared that a decision favorable to the congressman would break down the whole system of race separation which governs Dixie.

MAY 10 1941

The decision says that Negro passengers traveling from one state to another are entitled to the same accommodations as white people receive.

Referring to the removal of Mr. Mitchell from the Pullman and his being forced to complete his journey in a jim crow car, Justice Hughes said:

"This was manifestly racial discrimination during an interstate journey and admittedly this discrimination was based solely on the passenger being a Negro. The question is not whether discrimination is forbidden by the Interstate Commerce Act but instead if a question of the equality of treatment.

"Denial of accommodations solely on the grounds of race is an invasion of fundamental individual right which is guaranteed against state action by the 14th amendment in view of the nature of the right and of our constitutional policy. It cannot be maintained that discrimination in this was not unjust."

Arguments by Rep. Mitchell and his counsel, Atty. Richard Westbrooks of Chicago, were heard by the supreme court on March 13. He told how he had been denied Pullman accommodations and forced to travel second class in a jim crow car. Both the ICC and the federal district court for northern Illionis dismissed this case, resulting in an appeal to the high court.

J. Stanley Payne, ICC assistant chief counsel, and Wallace T. Hughes, attorney for the railroads involved, the Chicago, Rock Island and Pacific, attempted to defend their stand arguing that the demand by Negroes in Arkansas for Pullman facilities was "virtually non-existent."

Solicitor General Francis Biddle filed a brief in support of Mr. Mitchell contending that the Arkansas separate coach law under which the congressman was ejected did not apply to an interstate passenger. He pointed out alo that the small number of Negroes asking for first class accommodations did not justify an occasional discrimination against them because of their race.

In an attempt to prevent a decision involving the Arkansas separate coach law, similar to those in other southern states, the attorneys-general in their brief contended that this was "not a question involving the 14th amendment" and stated the separate coach law and the question of its constitutionality "are not properly before the court for consideration and determination."

"Since this case can be disposed of without either a tentative decision on the construction of the statute and since these questions touch a sensitive area of social policy, this court, exercising a wise discretion, and because of scrupulous regard for the rightful independence of the state governments in the reasonable exercise of their police powers in dealing with this highly important matter should restrain its authority and stay its hand," the brief set forth.

MAY 10 1941

New York Age
New York, N. Y.

CHIEF JUSTICE HUGHES

THE RETIREMENT of Chief Justice Charles Evans Hughes of the United States Supreme Court on July 1 after a career of nearly forty years of public service will be generally regretted by citizens of all races. Throughout his career the Chief Justice has adhered to the highest standards of conduct but it was not until he was appointed to the Supreme Court that his services to the Negro, as a minority group, became notable.

JUN 14 1941

Adhering strictly to the spirit and letter of the Constitution, he joined with other liberal members of the court in rendering several decisions that had far-reaching effect in giving the Negro a squarer deal in the courts of the land. Through rulings by the Supreme Court, under Chief Justice Hughes, courts in the South have been forced to call Negroes to jury duty, and in other recent decisions the railroads of the South were ordered to provide equal accommodations for Negroes where there are jim crow state laws. Another recent decision ordering several Southern states to equalize the pay of public school teachers with the same qualifications, without regard to race, is of great moment to the Negro.

Before becoming a member of the Supreme Court, where he succeeded the late Chief Justice William Howard Taft, Mr. Hughes gave up a large private practice to become Governor of New York and to later serve as Secretary of State. He was first appointed to the Supreme Court during the Taft administration but resigned to run for President against Woodrow Wilson in 1916.

JUN 14 1941

We join with thousands of others in wishing Mr. Hughes many more years of life and health in his retirement and salute a great jurist.

14-1941
Pittsburgh Courier
Pittsburgh, Pa.

Supreme Court Speaks

BUT AVOIDS RULING ON REAL ISSUES THAT KEEP US CRUSHED

BY JOSEPH D. BIBB

MAY 10 1941

CONGRESSMAN MITCHELL won his case before the Supreme Court last week and the news of this achievement is being heralded all over the nation. The country is showering the Congressman with congratulations for his splendid courage, his tenacity and his final success. The Eight Old Men now sitting on the Supreme Court bench issued an opinion with unanimity, declaring that passengers traveling from one State to another cannot be jim-crowed. While we can chalk up this decision as "constructive progress in legal evolution," still we cannot go into ecstacies of enthusiasm, nor can we give ourselves over to exultations of delight, nor rhapsodies of victory. For while the Supreme Court has handed down decisions favoring us in the Gaines, the Hansbury and the Mitchell cases, and for which we are duly grateful, we cannot in calm, dispassionate reason fail to understand, nor comprehend that this high tribunal is cautiously, carefully, painstakingly avoiding the greatest legal issue concerning us and that is the Fourteenth Amendment, whereby we would receive all of the blessings of Liberty and Freedom.

Mr. Bibb

CLOSED ITS EYES

With polished reserve, polite restraint and intellectual finesse the Supreme Court has veered away from the Civil Rights bills and has closed its eyes to the broad and liberal construction of the Constitution that would carry out the intention of the framers of the Fourteenth and Fifteenth Amendments.

MAY 10 1941

THE Justices of the Supreme Court know that these Amendments overruled the "Dred Scott Decision" and doomed Mr. Justice Taney's damnable dictum — that is, "that no black man has any rights that the white man is bound to respect." It is inconceivable how Justices like Frankfurter, Harlan F. Stone and Hughes can square the decisions in the Civil Rights cases. Their steel-triggered mentalities must be offended by the judicial snobbery adopted by past members of the "Court of Last Resort" in upholding the jim-crow laws of the South. This writer remembers that the late President Taft remarked to his students of Constitutional Law at Yale that the Supreme Court had obviously been extremely unfair to the colored people, and that he agreed with much of the dissent of Mr. Justice Harlan. I was one of his students and heard him say so.

WE REMEMBER HIM

MAY 10 1941

We remember Mr. Justice Frankfurter. He taught us Public Utilities at Harvard. He used to constantly make use of this phraseology: "Weigh the interests and balance the conveniences." We think he did that very thing in handling the opinion in the recent case of "Railroad Commission of Texas vs. the Pullman Company, Guy Thompson, etc." The Texas Commission had issued an order declaring that no sleeping car shall be operated in the State of Texas unless continuously in charge of an employee having the rank and position of Pullman conductor.

THIS order barred the Pullman porters from running in charge. They carried the case to the Supreme Court and Mr. Justice Frankfurter, in handing down the decision, states: "The complaint of the Pullman porters undoubtedly tendered a substantial constitutional issue. It is more than substantial. It touches a sensitive area of social policy which federal courts ought not to enter unless no alternative to its adjudication is open."

NOTE THE TEMPER

Note well here what the temper of the Court is in regards to us. It does not desire to enter into "a sensitive social area" if it is not compelled to. It means that discrimination, segregation and the like will not be disturbed in the South unless it becomes absolutely necessary. The Supreme Court must eventually waive away all these spurious legal technicalities and blast away the jim-crow laws of the South. This Court can always find a legal way to an equitable result.

THE upshot of the decision in the Mitchell case is that the Interstate Commerce Commission must issue a "Cease and Desist" order on the Rock Island Railroad. Mitchell, then will prosecute his $50,000 damage suit against the same parties in Illinois.

RICHARD E. WESTBROOKS, brilliant advocate for the Congressman, says that since he was a little boy in Texas, he has yearned to battle before the Supreme Court for his people. He submitted his services gratuitously to the Congressman, thus the legal profession is fired and challenged to keep the fight up until all the jim-crow and discriminatory laws of the South have been declared unconstitutional and the "sensitive social areas" have been boomed into surrounding their false and licentious doctrines.

MAY 10 1941

WHAT COURT SAID

All that the Court said in this Mitchell case is that you must not jim-crow interstate passengers because of color. It says nothing about intrastate passengers and the jim-crow laws barring us from life, liberty and the pursuit of happiness within the separate States. The Supreme Court still follows the elections.

Afro-American
Baltimore, Maryland

Mitchell Wins a Victory in the Supreme Court

MAY 10 1941

1. **Mr. Mitchell to be commended.**
2. **Jim-crow cars not judged illegal, but accommodations must be equal.**
3. **U.S. Government on Mitchell's side.**
4. **State jim-crow laws do not apply to interstate passengers.**
5. **Supreme Court's decision is half a loaf.**
6. **Mr. Mitchell publishes a letter we think impolitic.**

There are four important considerations involved in the Supreme Court's decision in the case of Congressman Arthur Mitchell last week.

Mr. Mitchell was ejected from a Pullman car while en route from Chicago to Hot Springs, Ark., in April, 1937, and was forced to ride second class in a jim-crow car.

MAY 10 1941

He filed a complaint with the Interstate Commerce Commission which ruled against him. The District Court of Illinois sustained the commission. Last week the Supreme Court ruled that both district court and commission were in error and that Mr. Mitchell, when traveling from one State to another, is entitled to Pullman facilities equal to those provided for other passengers.

* * * *

Consideration No. 1—Congressman Mitchell is to be commended for this single-handed, four-year fight. He did an important job for all the people, since heretofore colored people have been denied sleeping facilities on trains in Southern States with jim-crow car laws unless they agreed to pay two Pullman fares and took a compartment.

In addition, they had to go without meals in dining and club cars and were denied use of observation cars.

MAY 10 1941

* * * *

Consideration No. 2—Chief Justice Hughes, who wrote the opinion, stated definitely that the court did not rule on the right of Southern States to require separation of races and jim-crow cars, but—

"The principle that must govern is that carriers must serve equally well all passengers, whether white or colored, paying the same fare."

This is a sour note.

It is a reiteration of the high court's oft-enunciated dictum that the Arkansas State segregation law is legal if equal facilities are provided.

In arriving at this view, Mr. Justice Hughes ignored one sentence in the Fourteenth Amendment to the Constitution of the United States. It reads:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

To us, that sentence means but one thing: that no

State can give any citizen special treatment. It can't, because of color, require him to ride in a separate car.

Perhaps Mr. Mitchell did not raise this issue and was satisfied simply to get equal accommodations.

Somebody must be bold and manly enough to raise it and continue the challenge until the whole Constitution is respected.

There can never be any equality among the citizens of a democracy if the State is permitted to separate and segregate them according to any false and accidental reason such as color.

* * * * MAY 10 1941

Consideration No. 3—Mr. Justice Hughes, in writing his opinion, leaned heavily upon U.S. Solicitor-General Francis Biddle who entered the case on the side of Mr. Mitchell.

It is important to note which side the government was on in this case.

Mr. Hughes quoted Mr. Biddle's memorandums on three different occasions in his brief opinion. One of these was particularly devastating.

Mr. Biddle said:

"The commission erroneously supposed that the Arkansas Separate Coach Law applied to an interstate passenger and erroneously determined that the small number of colored passengers asking for first-class accommodations justified an occasional discrimination against them on account of their race."

Both items in the above paragraph are important.

The Maryland Court of Appeals ruled in the Hart case thirty years ago that a State jim-crow law could not apply to interstate passengers. And this ruling virtually sounded the death knell of jim crow on trains in Maryland. But passengers on carriers between Washington, D.C., and Alexandria, Va., are still compelled illegally to ride in separate cars as soon as they cross the Virginia line.

The high court also settled the argument of railroads that too few colored passengers ride the Pullman trains to warrant a separate car or a partition such as is used in coaches. It ruled that one applicant is enough, and that it is the individual, not merely the group, who is entitled to equal protection of the law.

* * * * MAY 10 1941

To sum up the whole matter, the Supreme Court's decision is half a loaf. It is better than no bread.

The press of the South has been quick to reassure itself gloatingly that the Supreme Court has not interfered with segregation.

The court has and it hasn't. It hasn't said that jim crow cars must be abolished, but it couldn't have been an accident that it quotes Mr. Biddle, saying that State jim-crow laws cannot apply to interstate passengers.

* * * *

Consideration No. 4 — Entirely apart from the court's decision itself is correspondence made public by Mr. Mitchell between himself and Dr. William H. Hastie, a member of the NAACP legal committee.

Dr. Hastie is dean of the Howard University Law School, now on leave to act as special advisor to the Secretary of War. He is an ex-U.S. judge and one of the ablest of our lawyers.

Dr. Hastie, acting for the association, wrote Congressman Mitchell that he had been advised that attorneys-general of ten Southern States had filed briefs with the Supreme Court requesting it not to act on the Mitchell appeal.

If the Congressman desired it, Dr. Hastie wrote, he would be glad to file a friendly brief supporting Mr. Mitchell.

Mr. Mitchell's reply was that he didn't want NAACP help because he had no confidence in the genuineness and good faith of As offer, and not a great deal in the ability of those making it.

From this we can conclude that Mr. Mitchell and the NAACP are not on good terms.

Since this is a private quarrel we do not intend to stick our necks out, except to say that we disagree entirely with Mr. Mitchell. We believe Dr. Hastie's offer was in good faith, and that in government and legal circles no one has heretofore questioned his ability.

The Congressman had a perfect right to decline Dr. Hastie's courteous offer of aid, and we think the publication of his abrupt refusal served no useful purpose.

Negro Labor News
Houston, Texas

SUPREME COURT REVERSES LOMAX DEATH PENALTY

The Supreme Court, Monday, reversed the death penalty set by a Texas court in the case of J. C. Lomax who had been accused of raping a white woman near Conroe.

Texans were thrilled to know of the victory of Whittaker and the Houston branch of the NAACP, who conducted the figt, since it came at the moment when all hope had been given up as to setting Lomax free.

MAY 18 1941

It is believed that the reversal was based on the Supreme Court decision written by Justice Hugo L. Black last year making it unlawful and unconstitutional to obtain confessions from helpless Negroes by force or coercion.

Attorney Whittaker returned from Washington this week stating that the Supreme Court took little time in making its decision following his presentation.

This makes the second time this year that Attorney Whittaker has figured in the saving of a Texas Negro from the death chair by making appeal to the Supreme Court. The other case was the historic Bob White case.

Age-Herald
Birmingham, Ala.

RETIREMENT OF HUGHES IS LOSS

Appointment Based Upon Politics Is Fear Of Writer Lawrence

BY DAVID LAWRENCE

WASHINGTON, June 4—The saddest news of the hour is the passing from the Supreme Court of the United States of a truly great chief justice—Charles Evans Hughes.

It is not merely, however, the retirement itself which may well be an occasion for national regret but the realization that under the three terms of President Roosevelt the highest court of the land has become a political institution made up of politicians chosen from the inner circle of political intrigue and partisanship.

JUN 5 1941

There are two vacancies on the High Court today. Can any man trained in the law now sitting on either the federal or state bench look to the Supreme Court as a possible goal of attainment on merit? Not at all. For only through the channels of politics and personal service to the political chieftain of a national party apparently can promotion be won. The merit system principle has been dealt a body blow by the five appointments already made and there is talk now of adding two more politicians from the official circle to fill the existing vacancies.

Political Decisions Charged

The effect of this policy has already been evident. Political decisions based on the casuistic reasoning of those who have a definite stake apparently in making the present administration's policies effective already have been rendered. Chief among these was the amazing distortion of the laws and the bold addition of words never written by Congress in a Labor Relations case recently decided wherein an employer was forced to hire an applicant he had once rejected, being now ordered to compensate in back pay the same employe from the time of the rejection to the date of forced employment.

There are some eminent men on the Circuit Courts of Appeals and some able men on the State Supreme Courts. But they haven't a chance for promotion in their profession to the court the late Justice Hughes revered. After this any lawyer will be well advised to get into politics early and play the political game with its customary hypocrisies and compromising expediencies if he wishes to land a place on the Supreme Court of the United States. The advice given will be to go to Washington, get an appointment in some department or agency, compromise with principle, play the game of the administration and look for ultimate reward on the bench.

Appointments Are Cited

Politics has been the ruling factor not only with Supreme Court appointments but with federal judges generally. Time was when presidents of the United States had respect for the principle of a bipartisan judiciary. Mr. Roosevelt in eight years has appointed more than 60 per cent of all the federal judges of the country. Yet 95 per cent of those appointed come from his own political party — a great many of them having been actively engaged in politics.

There may be a difference of opinion as to whether past presidents gave enough recognition to the economic class represented by what might be called the radical as against the conservative viewpoint. But it will be recalled that President Hoover, a Republican and supposedly a conservative, appointed the liberal Justice Cardozo. It will be recalled, too, that President Coolidge, admittedly a conservative, appointed the liberal Justice Harlan Fiske Stone. It will be recalled that President Wilson, a liberal, appointed the conservative Justice McReynolds.

JUN 5 1941

The American concept of fair play and tolerance of the minority viewpoint has hitherto been invoked in court appointments. On the federal bench the party in power has rarely exceeded 60 per cent, the opposition being given an average of 30 to 40 per cent of the judicial appointments. It has meant a balancing of the court so as to give the minority some representation.

But the present administration has not done so. It has been totalitarian in its concept. Only the members of one group—the political group of officials and advisers of the present administration — have been appointed or are apparently nowadays considered eligible for appointment.

Able Men Available

A man like Justice Harold Stephens, of the Court of Appeals of the District of Columbia, for instance who was recommended by Attorney General Cummings at one time for the Supreme Court and who has made a great record on the bench to which he was appointed by President Roosevelt, a few years ago ought to be placed on the highest court.

Down in Texas is another Court of Appeals liberal, Justice Hutcheson, and on the highest courts of Massachusetts and New York are men of proved ability and judicial temperament. Do they have a chance? Not if the gossip which has been current for weeks is correct. For the next two appointments are also to come from the ranks of the politicians.

That's why the passing of Chief Justice Hughes is indication of a bigger tragedy than simply the loss of a great justice. It means the beginning of the end of the dignified, impartial, objective, non-political and independent judiciary and emphasis instead on the first time in history has been "packed" with politicians who have been subservient to the will of the chief executive.

14-1941

Daily World
Atlanta, Georgia

High Court Decision Hits White Primary

Holds Federal Government Has Control of Voting

WASHINGTON, D. C. — (S.N.S) — The greatest blow dealt the South's systematic exclusion of Negroes from participating in politics through the manipulation of "white primary laws" since the outlawing of the Grandfather's Clause was handed down Tuesday when the United State Supreme Court held that the federal government's power to regulate elections includes a state primary to select a nominee for congress.

The opinion was read by Justice Stone, following a 4 to 3 decision, involving a question described by the Justice Department as of "paramount public importance".

Justices Douglas, Black and Murphy dissented and Chief Justice Hughes did not participate.

That the decision will definitely affect those states where primary laws are so manipulated as to disenfranchise Negro voters was the opinion of a high official of the Justice Department who was instrumental in obtaining the opinion of the high court.

The opinion moves the regulation of primary elections involving federal offices from the hands of local politicians and places it in the category of federal government.

"This opinion," he said, "makes it exceedingly likely that the court would rule that any interference with the rights of Negroes to vote in a primary to determine candidates for federal office violated the federal statute."

Justice Stone delivering the majority opinion asserted: "We think that the authority of Congress . . . includes the authority to regulate primary elections when, as in this case, they are a step in the exercise by the people of their choice of representatives in Congress.

He explained that this question had not been passed on specifically in any previous decision of the Supreme Court including litigation involving former Senator Truman H. Newberry, of Michigan.

This latest opinion was seen as a great boost to the cause of those organizations, including the N. A. A. C. P., now engaged in efforts to break down the restrictions the South has placed on the ballot.

Another attack is now being waged on voting restriction by Congressman Lee Geyer of California, who has introduced the Geyer bill, a measure designed to eliminate payment of poll tax as a requisite to participation in elections for federal offices.

This measure has the backing of the NAACP.

News
Birmingham, Ala.

Supreme Court Will Adjourn For Annual Vacation Next Week

Only Six Cases Left On Tribunal's Docket After Monday Decisions

WASHINGTON—(AP)—Only six cases remained on the Supreme Court docket Tuesday for a decision next Monday before the tribunal adjourns for its four-month summer recess.

One of them involves constitutionality of federal construction of the $54,000,000 Denison Dam in Texas and Oklahoma, intended to manufacture power as well as to control floods.

Two of the others were the long-pending appeals of Harry Bridges, West Coast labor leader, and The Los Angeles Times from contempt of court convictions growing out of the publication of comment on court cases before a final settlement.

These were the only controversies of general interest left undecided after the tribunal Monday disposed of 17 cases.

In one of the opinions, the court ruled 4 to 3 the federal government can regulate primaries as well as general elections in a state when the selection of members of Congress is involved.

Justice Stone delivered the far-reaching decision.

The tribunal ruled unanimously a state may bar combinations such as the American Society of Composers, Authors and Publishers (ASCAP) which seek to fix license fees for public performance of copywrited music for profit.

Justice Black wrote two opinions, applying specificially to Florida and Nebraska legislation challenged by ASCAP. Validity of technical details of the statutes was left for future determination.

Vice President Wallace won a long and hotly contested case when the court upheld an order he issued in 1939 as Secretary of Agriculture reducing the maximum fees permitted the commission men at the Kansas City Stockyard between 1933 and 1937.

Justice Frankfurter wrote the 6 to 1 opinion.

Telegraph
Macon, Georgia

Invading State's Rights

The supreme court of the United States, by one of those 4 to 3 decisions, has ruled that the federal government may regulate primaries for the nomination of representatives in congress. Justice Douglas, Black and Murphy dissented and Chief Justice Hughes did not participate in the decision.

This is another flip-flop on the part of the court of last resort which is rapidly rewriting the constitution of the United States. Any process of reasoning which applies to a primary or election to choose a member of the senate would logically apply to a member of the house of representatives, and the court once ruled that a senator who had bought his way into the upper chamber was above congressional interference, for lack of control over state elections.

Presumably the high court will still concede that the states have the right to fix the conditions under which a citizen may vote, but other regulations apparently will be subject to federal laws.

But there wasn't much left of state sovereignty, anyhow.

Journal and Guide
Norfolk, Virginia

Pulling at Jim Crow's Feathers

From Norfolk Virginian-Pilot

THE SUPREME Court's decision that Negroes buying first-class transportation are entitled to Pullman accommodations and other first-class servces equal to those furnished white passengers on railroad trains, does not affect the larger question of segregation but it deposits a tough problem on its doorstep.

It confronts the railroads with the problem of reconciling the segregation demanded of them by the Southern States with the equal accommodations required of them by the Federal government as custodians of people's irreducible constitutional rights.

Street car and bus companies in the South have found a practicable solution in providing the races with exactly equal accommodations in the same cars, subject only to a separation of the seats. n this process, Jim Crow has lost a few tail-feathers without observable damage to interracial relations. Perhaps that is the direction in which the railroads will now seek an answer that will relieve them of the burden of providing separate first-class facilities in car-lots, for a colored demand that could be satisfied, in all ordinary circumstances, by less-than-car-lot accommodations.

Congressman Mitchell, of Chicago, who precipitated the case which the Supreme Court has now decided, calls the decision a "step in the destruction of Mr. Jim Crow himself." As a long-perspective appraisal of jim-crowism in public transportation, that is probably correct. Jim Crow lost some of his tail-feathers when the South modified its segregation rule enough to sanction biracial use of elevators, buses and street cars. Already, on many railroads in the South, the two races share the same day coaches, separated by a partition instead of, as in the buses and street cars, by an invisible and movable dividing line.

It is not a long step from this arrangement as to day coaches, to a similar arrangement in Pullmans and sleepers. The development will probably be hastened by the fact that the super deluxe form of modern transportation—the transcontinental air transport plane—can solve the racial problem in no other way that would not be prohibitive.

What we have in the present Supreme Court decision is the definition of law that fixes the individual's irreducible rights—a necessary prelude to the devising of arrangements to comply with what the law demands. It can be denied by nobody that until recent years the "equal accommodations" doctrine on which segregation has built its constitutional immunity, was grossly ignored.

It is still grossly ignored in such matters as public schools and colleges. It is still only partly satisfied on public carriers. The import of the present decision is that equal accommodations on railroads must be translated from theory into fact. It will not be a simple thing to do. It may cost a lot of money. But unless it is done, the carriers will soon be confronted with something tougher—with the underlying segregation issue itself.

Afro-American
Baltimore, Maryland

Red Caps Lose in High Court

Most newspapers last week overlooked the Supreme Court's refusal to review a decision against red caps.

What the high court did was to deny a petition of the United Transport Service Employees for review of a circuit court decision which held that the Union Terminal Company of Dallas, Texas, didn't have to pay its station employees $77,753 in back pay for tips counted as wages under the Fair Labor Standards Act.

Papers forgot that in unionizing, red caps are now the United Transport Service Employees.

Six thousand red caps in railroad stations are affected by the decision but a million more men and women who work as bell boys and waiters will be affected.

In the old days, red caps could earn from $3 to $5 a day in tips handling passengers' bags at railroad stations.

When the wage-hour law went into effect in 1938, union organizers persuaded them to claim status as company employees and demanded a minimum wage of 30 cents an hour.

Terminal companies retaliated by instituting the 10-cent-a-bag plan under which the porter turns in 10 cents to the company for each bag he handles and receives in return a straight wage of 30 cents an hour.

Under this new scheme, smart red caps who used to earn from $25 to $30 a week have been cut to half that amount.

The law, designed to benefit the underpaid workers, has not been of much benefit to red caps and hotel workers. But the Supreme Court's decision at most is a temporary setback. Defense work and the draft will claim many young men from these low-wage occupations, and sooner or later the railroads, in order to serve passengers adequately, will have to raise the red caps' pay.

Negro Labor News
Houston, Texas

SUPREME COURT RULES PRIMARIES SUBJECT TO FEDERAL REGULATION; NEGROES AIDED IN FIGHT FOR BALLOT

Verdict Paves Way For Federal Intervention In Primaries Barring Negroes.

WASHINGTON, D. C. —(Special) —The supreme court ruled Monday that all state primaries and nominating conventions were subject to the same federal regulation which governs general elections.

The ruling by the high court was termed by many as the passage way into the previously lily-white Democratic primary in the South for Negroes now denied the right to participate in these primaries.

The conclusions of the judges in a 4-3 vote on the case was that it was unconstitutional to deprive a citizen of his constitutional rights. Their arguments were based on the passage of the broad 1870 statute which makes it a crime to deprive a citizen of his constitutional rights.

Although the case passed on Monday was based on election misdemeanors in New Orleans's Democratic primary last September and not on the question of Negro suffrage, it was contended by many justice department officials that the decision indicate the court would "rule [illegible] any interference with the rights of Negroes to vote in a primary to determine candidates for federal office violated the federal statute.

Further, authorities believed that the court would also hold the 1870 law applicable to any political party regulations which bar Negro voters from primaries or which require tests of party regularity.

Observers and opponents of the lily-white Democratic primaries now view possibilities of a reversal in the decision of Judge T. M. Kennerly in the Sidney Hasgett case of Houston, which was lost by the NAACP when the judge ruled that the Democratic primary was a private organization.

The Hasgett case is now being brought [illegible] the district court of appeals in New Orleans and if defeated there will be carried to the supreme court.

Afro-American
Baltimore, Maryland

High Court Rules Tips Are Wages

WASHINGTON

Tips received from patrons now may legally be counted as part of an employee's wages.

The practice received ultimate sanction last week when the U.S. Supreme Court declined to review a circuit court ruling to that effect involving forty red caps of the Dallas (Texas) Union Terminal Company.

May Mean $5,000,000 Loss

Plaintiffs thereby lose hope of collecting $77,753 they sought in back pay under the Fair Labor Standards Act. Similar claims totaling almost $5,000,000, on behalf of some 6,000 other red caps throughout the country, are likewise jeopardized.

In all, the ruling may affect the wage status of almost a million service employee, including waiters, porters, bellhops and others.

Bungling Charged

Chicago headquarters of the United Transport Service Employees, national red caps' union, immediately charged that the Brotherhood of Railway Clerks, sponsors of the Dallas case, had bungled it, thereby placing the entire red caps' wage-recovery movement "in a very disadvantageous position."

UTSEA officials indicated that they would continue their own legal battle against seven major railroads. Their statement said in part:

Red Caps "Betrayed"

"Bordering on the point of a conscious betrayal of the interests of red caps throughout the country, the Railway Clerks pulled a master 'boner' in seeking the writ of certiorari for a case that had nothing to its credit but the sympathy of the public.

"However, contrary to the advice of many authorities on the cases, the brotherhood barged into the Supreme Court with many glaring weaknesses in the suit and was able to destroy more in one hour than was built up over a period of months.

Strong Points Neglected

"A basic issue raised by the UTSEA aside from the legal relationship of tips to wages was the question of wholesale intimidation and coercion used by railroads in forcing red caps to 'pad' tip reports in order to keep their jobs . . .

"Another issue which the clerks refused to consider was the fact that the railroads failed to file tax reports to the Bureau of Internal Revenue on the tips supposedly paid out as wages, which was a self-admission that they (the railroads) did not actually consider the tips reported as wages paid."

Organization Battle Seen

The UTSEA has for some time been engaged in an organizational controversy over what it terms the jim crow auxiliaries of the white clerks' brotherhood, and now charges that the latter deliberately mishandled the wage-recovery suit in an effort to weaken UTSEA influence.

The Dallas red caps contended that the terminal company erred in deducting the tips they were required to report, from the minimum hourly wage of 30 cents paid them.

Their lower court victory was reversed on an appeal by the terminal company to the Fifth District Circuit Court. It was this reversal that the Supreme Court, in effect, upheld.

New York Age
New York, N. Y.

Byrnes Appointment A Shock To Negroes President Is Told

The appointment of Senator James F. Byrnes of South Carolina to be associate justice of the United States Supreme Court, Thursday, June 12 is a shock to Negro Americans, the NAACP informed President Roosevelt.

Immediately upon receipt of word of the appointment the Association, which has long fought Byrnes' reactionary racial and labor policies and has repeatedly exposed his unfavorable stand on questions involving the Negro and other minorities, wired the President.

Irony of the situation was that Byrnes nomination was confirmed eleven minutes after the Senate received word of it, in spite of the Senate's previous ruling never to confirm an appointment to the Supreme Court bench without a hearing. This ruling was made after the furor which arose when Justice Hugo Black was appointed. The nominations of Justice Harlan F. Stone and Attorney General Robert L. Jackson were referred to the Senate judiciary committee.

Byrnes, as Senator, fought the Wage Hour Bill, lobbyed and filibustered against the anti-lynching bill, ranted against the Negro press and in 1917 opposed the conscription bill because, "Under the War Department's conscription bill they would have the right to assign a (white) boy from South Carolina to serve by the side of a Negro from Indiana. If they did this they would not have to go to Europe for war."

Byrnes, whose reputation as a shrewd politician is exceeded by few, has on every occasion opposed grants of Federal funds to Howard university. His home state, South Carolina, is a poll tax state where only 5.2 percent of the voting age population cast ballots in the presidential election of 1940.